



**CITY OF PITTSBURG  
PLANNING COMMISSION AGENDA**

**JUNE 9, 2026**

**CITY HALL COUNCIL CHAMBER  
65 CIVIC AVENUE, PITTSBURG, CA**

**REGULAR MEETING  
7:00 PM**

**Planning Commission Members**

**Donna Smith, Chair  
Elissa Robinson, Vice-Chair  
Jennifer Ingram, Commissioner  
Deandra Stokes, Commissioner  
Ivelina Popova, Commissioner  
Reilly Kent, Commissioner  
Sarah Foster, Commissioner**

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**Any member of the public who wishes to address the Commission should complete a Speaker's Card, available on the public counter below the dais.** Please note on the card the agenda item number, or, for items not listed on this agenda, a brief description of the issue on which you would like to address the Commission. Give the completed form to the Minutes Clerk or a staff member, who will give the card to the Commission Chair. The Chair will invite the speaker(s) to the podium at the appropriate time during the meeting. Each individual will be given three minutes to address the Commission, unless additional time is allowed as provided for spokespersons. Prior to speaking, each speaker is requested to state his or her name and business and city of residence in a clear and audible tone of voice. For items listed under the "Public Hearings" or "Commission Consideration" portions of this agenda, the public hearing or public comment period will follow a brief presentation on the item by Planning Department staff and/or the project applicant.

**A decision by the Planning Commission is not final until the appeal period expires 10 calendar days after the date the decision occurred.** The applicant, City Council member(s), City Manager, or any affected person may appeal the denial, approval, recommendation, or any condition of approval of an item within the 10-day appeal period. A completed appeal form and the applicable filing fee must be filed with the City Planner, 65 Civic Avenue, Pittsburgh. The appeal form must include the name and address of the appellant and state the reasons for the appeal. The appeal will be set for City Council consideration and appropriate public notification given.

**The Commission requests that you refrain from disruptive conduct during the meeting and that you observe the order and decorum of the Council Chamber.** Please turn off or set to vibrate all cellular phones, and refrain from making personal, impertinent or slanderous remarks. Boisterous or disruptive behavior while the Commission is in session, and the display of signs in a manner that violates the rights of others or prevents others from watching or fully participating in the Planning Commission meeting is considered counterproductive and will not be tolerated, and the Commission Chair can order any person who engages in such conduct to leave the Council Chamber.

This agenda was posted in City Hall on Thursday, June 4, 2026

## **CALL TO ORDER**

## **ROLL CALL**

## **PLEDGE OF ALLEGIANCE**

## **DELETIONS, WITHDRAWALS OR CONTINUANCES**

## **COMMENTS FROM THE AUDIENCE**

## **CONSENT**

### 1. Minutes

Minutes of May 26, 2026

### 2. Esperanza Apartments at San Marco (Village M), Extension of Design Review Approval, AP-26-0060 (EXT)

This is a request for a third, three-year extension of approval for design review of plans to construct a 318-unit apartment complex, consisting of twelve three-story buildings and one clubhouse, on a 13.3-acre site located at 2009 W Leland Road and known as 'Village M' of the San Marco PD (Planned Development, Ordinance No. 24-1519) District. Assessor's Parcel Nos. 091-050-068 and portion of 091-050-069.

The original project was within the scope of the previously approved Supplemental Environmental Impact Report ("SEIR," State Clearinghouse #91073029) prepared for the San Marco Development Plan Area, and certified by the Planning Commission on October 13, 1992. The project was in substantial conformance with the multi-family residential units analyzed in the SEIR for Village M of the San Marco Development Plan area. In accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15162, there are no substantial changes that have occurred with respect to the circumstances under which the SEIR was certified, and no new significant environmental effects, nor a substantial increase in the severity of previously identified significant effects which could require revisions to the SEIR.

### 3. 7 Brew Coffee – Freestanding Monument Sign, AP-26-0056 (SR)

This is an application submitted by Russ Orsi of Forza Development on behalf of 7 Brew Coffee, requesting approval of Sign Review application to construct a 5-foot-tall freestanding monument sign, located at 2155 Railroad Avenue. (The site is located within the Transit Village Subarea of the Railroad Avenue Specific Plan (RASP and has a CC-Community Commercial zoning land use classification. Assessor's Parcel No.: 088-183-011.

The proposed project is categorically exempt from the provisions of the CEQA Guidelines pursuant to the Provisions of Title 14 of the California Administrative Code, Section 15303(e) (New Construction or Conversion of Small Structures) because it involves the construction of a new, small

accessory structure (freestanding monument sign). Based on the project's scope, characteristics, and location, there is no substantial likelihood that the project will have a significant impact on the environment.

## **PUBLIC HEARINGS**

4. Blue Wave Car Wash Time Extension, AP-26-0016 (EXT); AP-21-1562 (UP, DR, RZ)

This is a request for a three-year time extension of the Use Permit and Design Review approved entitlement for the Blue Wave Car Wash project (AP-21-1562). Blue Wave Car Wash was originally recommended for approval by the Planning Commission to the City Council under Planning Commission Resolution No. 10213. The City Council subsequently adopted Ordinance No. 23-1506 and Resolution No. 23-14236 and 23-14237, approving the project. The Blue Wave Car Wash entitlements were set to expire on February 6, 2026. On January 29, 2026, the applicant filed a request for a three-year time extension. The parcel is located in the CC-O (Community Commercial with a Limited Overlay) Zoning District and is identified as 1160 East Leland Road. Assessor's Parcel No. 088-230-028.

This project is exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines section 15061(b)(3). Section 15061(b)(3) states that "CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." The proposed request is a Time Extension only for an additional three years for an existing, approved project. There is no possibility that this Time Extension request may have a significant effect on the environment and, therefore, is not subject to CEQA. The underlying automobile washing facility project approvals underwent separate environmental analysis and there have been no proposed revisions or modifications to project since the original approvals (State Clearinghouse Number 2022080293).

## **STAFF COMMUNICATIONS**

## **COMMITTEE REPORTS**

## **ADJOURNMENT OF PLANNING COMMISSION MEETING**

## NOTICE TO PUBLIC

### GENERAL INFORMATION

Copies of the open session agenda packets, as distributed to the City Council, are on file in the office of the City Clerk, 65 Civic Avenue, Pittsburg, California, and are available for public inspection, beginning 72 hours in advance, during normal business hours (8:00 a.m. – 5:00 p.m., Monday through Friday, except City holidays). Full agenda packets are also located on the City's website at [www.pittsburgca.gov](http://www.pittsburgca.gov). If any reports or documents, which are public records, are distributed to the City Council less than 72 hours before the meeting, those reports or documents will be available for public inspection in the City Clerk's Office and on the day of the meeting in the Council Chamber at the public counter area below the dais.

### SPEAKER'S CARD

Members of the audience who wish to address the City Council on issues that are not scheduled for the agenda and on any items listed as part of the agenda should complete a Speaker's Card available at the dais. Please read the card carefully in order to fill out the card properly. Submit the completed card to the City Clerk before the item is called, preferably before the meeting begins. Individuals will be given up to three minutes to address the Council unless additional time is allowed as provided for spokespersons. Speakers are not permitted to yield their time to another speaker. Prior to speaking, each member of the public shall state their name and business and City of residence in a clear and audible tone of voice. Pursuant to the Brown Act, no action may be taken by the City Council on items not already scheduled on the agenda; however, the City Council may refer your comments/concerns to staff or request that the item be placed on a future agenda.

### PUBLIC HEARINGS

Persons who wish to speak on Public Hearings listed on the agenda will be heard when the Public Hearing is opened, except on Public Hearing items previously heard and closed to public comment. After the public has commented, the item is closed to public comment and brought to the Council/Agency level for discussion and action. Further comment from the audience will not be received unless requested by the Council/Agency.

There is a 90-day limit for the filing of a challenge in the Superior Court to certain City administrative decisions and orders which require a hearing by law, the receipt of evidence, and the exercise of discretion. The 90-day limit begins on the date the decision is final (Code of Civil Procedure Section 1094.6). Further, if you challenge an action taken by the City Council in court, you may be limited, by California law, including but not limited to Government Code Section 65009, to raising only those issues you or someone else raised in the public hearing, or in written correspondence delivered to the City Council prior to or at the public hearing. The City Council may be requested to reconsider a decision if the request is made prior to the next City Council meeting, regardless of whether it is a regular or special meeting.

### NOTICE TO THE DISABLED AND VISUALLY OR HEARING IMPAIRED

In compliance with the Americans with Disabilities Act, the City of Pittsburg will provide special assistance for disabled residents. Upon request, an agenda for any meeting shall be made available in appropriate alternative formats. The Council Chamber is equipped with sound amplifier units for use by the hearing impaired. The units operate in conjunction with the Chamber's sound system. You may request the sound amplifier from the City Clerk for personal use during Council meetings. If you need special assistance to participate in this meeting, or are requesting a specially formatted agenda, please contact the City Clerk at (925) 252-4850. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting or provide the requested agenda format. (28 CFR 35.102-35.104 ADA Title II)

### DISRUPTIVE CONDUCT

The Council requests that you observe the order and decorum of our Council Chamber by turning off or setting to vibrate all cellular telephones and electronic devices, and that you refrain from making personal, impertinent, or slanderous remarks. Boisterous and disruptive behavior while the Council is in session, and the display of signs in a manner which violates the rights of others or prevents others from watching or fully participating in the Council meeting, is a violation of our Municipal Code and any person who engages in such conduct can be ordered to leave the Council Chamber by the Mayor.

### LIVE MEDIA BROADCASTING ADVISEMENT

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**MINUTES  
OF A REGULAR MEETING  
OF THE  
PITTSBURG PLANNING COMMISSION**

**May 26, 2026**

A regular meeting of the Pittsburg Planning Commission was called to order by Acting Chair Robinson at 7:00 p.m. on Tuesday, May 26, 2026, in the Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California.

**ROLL CALL**

Present: Vice-Chair Robinson, Commissioners, Ingram, Kent, Popova, Stokes

Absent: Chair Smith, Commissioner Foster

Staff: Assistant Director of Community and Economic Development John Funderburg,  
Assistant Director of Public Works/Engineering Gina Haynes, Senior Planner  
Alison Spells, Administrative Analyst I Candace Hatch

**PLEDGE OF ALLEGIANCE**

Commissioner Popova led the Pledge of Allegiance.

**DELETIONS, WITHDRAWALS OR CONTINUANCES**

There were no deletions, withdrawals or continuances.

**COMMENTS FROM THE AUDIENCE**

There were no comments from the audience.

**CONSENT**

1. Minutes  
Minutes of May 12, 2026

On a motion by Commissioner Popova, approving the consent item(s), seconded by Commissioner Kent:

AYES: Ingram, Kent, Popova, Robinson, Smith  
NAYES: None  
ABSTAIN: None  
ABSENT: Foster, Smith

## **PUBLIC HEARING**

### 2. Cure Pet Animal Care, AP-26-0040 (UP)

A public hearing was held for approval of a Use Permit to allow a general veterinary clinic within an existing approximately 2,339 square-foot commercial space located at 628 Bailey Road, within the Oak Hills Shopping Center. The property is within the CC (Community Commercial) District. Assessor's Parcel Number: 093-130-046.

Senior Planner Alison Spells gave a presentation.

Applicant spoke on behalf of the project.

Acting Chair Robinson opened the public hearing.

There were no other public comments, Acting Chair Robinson closed the public hearing.

On a motion by Commissioner Kent, approving a Use Permit allowing general veterinary clinic within an existing approximately 2,339 square-foot commercial space located at 628 Bailey Road, within the Oak Hills Shopping Center, AP-26-0040 (UP), seconded by Commissioner Ingram:

AYES: Ingram, Kent, Popova, Robinson, Smith

NAYES: None

ABSTAIN: None

ABSENT: Foster, Smith

## **COMMISSION CONSIDERATIONS**

### 3. Recommendation on Adoption of the Five-Year Capital Improvement Program (CIP) – General Plan Consistency Determination.

A presentation was made by the Assistant Director of Public Works/Engineering Gina Haynes with a request to the Planning Commission to determine whether the projects in the proposed Five-Year Capital Improvement Program (CIP) are consistent with the City's 2040 General Plan.

Acting Chair Robinson opened public comment.

Public Comment was received by Bruce Ohlson, Pittsburg resident.

There were no further public comments, Acting Chair Robinson closed the public comment.

On a motion by Commissioner Popova, approving recommendation for adoption of the Five-Year Capital Improvement Program (CIP) General Plan Consistency Determination, seconded by Commissioner Kent:

AYES: Ingram, Kent, Popova, Robinson, Smith

NAYES: None

ABSTAIN: None

ABSENT: Foster, Smith

## **STAFF COMMUNICATIONS**

Secretary Funderburg provided an update to the Planning Commission on the tentatively scheduled items for upcoming meetings.

One (1) items tentatively to be presented at the June 9, 2026, meeting:

1. AP-21-1562 Blue Wave Car Wash (RZ, UP, DR) – 3-year Time Extension Request for a Use Permit to establish an automobile washing facility and Design Review approval to construct a commercial self-service carwash for Blue Wave, located at 1160 E. Leland Road, Pittsburg. Assessor's Parcel No. 088-230-028. Continued from April 28, 2026, Planning Commission meeting.

One (1) item tentatively to be presented at the June 23, 2026, meeting:

1. AP-21-1570 Public Hearing for Revocation of Use Permit for Day Spring Spa – Public Hearing for the Revocation of Use Permit NO. 21-1570 (Adopted under Planning Commission Resolution NO. 10171), which established a foot reflexology and message therapy business within an existing 1,536 square-foot commercial space located at 1353 Buchanan Road. The property is located within the Highlands Square Shopping Center. Assessor's Parcel No. 088-460.002.

Secretary Funderburg announced that the Pittsburg Police Department will host its 6th Annual Classic Car Show on Saturday, May 30, 2026.

There were no further staff communications.

## **COMMITTEE REPORTS**

Acting Chair Robison provided an update regarding discussions and actions from the May 14, 2026, Community and Economic Development Subcommittee Meeting.

There were no further committee reports.

## **ADJOURNMENT**

The meeting was adjourned at 7:53 p.m. to June 9, 2026.

Respectfully Submitted,

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John Funderburg, Secretary

**CITY OF PITTSBURG  
PLANNING COMMISSION  
STAFF REPORT  
June 9, 2026**

**ITEM: Esperanza Apartments at San Marco (Village M), Extension of Design Review Approval, AP-26-0060 (EXT).**

ORIGINATED BY: David Fish, Seeno Homes, [dfish@seenohomes.com](mailto:dfish@seenohomes.com), (925) 250-8358

SUBJECT: This is a request for a third, three-year extension of approval for design review of plans to construct a 318-unit apartment complex, consisting of twelve three-story buildings and one clubhouse, on a 13.3-acre site located at 2009 W Leland Road and known as 'Village M' of the San Marco PD (Planned Development, Ordinance No. 24-1519) District. Assessor's Parcel Nos. 091-050-068 and portion of 091-050-069.

RECOMMENDATION: Staff recommends that the Planning Commission adopt a Resolution (Attachment 1) approving Planning Application No. 26-0060, extending design review approval for three-years for the Esperanza Apartments at San Marco project, subject to conditions.

BACKGROUND: On April 25, 2017, the Planning Commission adopted Resolution No. 10060 approving the site design, landscape plan, architectural elevations and building materials for the proposed Esperanza Apartments at San Marco, a 318-unit apartment complex, consisting of twelve three story buildings and one clubhouse. At that meeting, the Commission considered public comments and then approved the project by a vote of 6-0. According to Condition No. 63 of Planning Commission Resolution No. 10060, the applicant was given three years from the date of the public hearing to obtain a building or grading permit for the project, or to submit a written request to the Planning Division for an extension of approval.

See Attachment 2 for Resolution No. 10060 adopted on April 25, 2017.

On March 24, 2020, the applicant submitted the first request for a three-year extension of design review approval for the Esperanza Apartments at San Marco, which was approved by the Planning Commission on May 26, 2020, in Resolution No. 10147. Condition No. 63 of Planning Commission Resolution No. 10147 extended the project expiration date to May 26, 2023. As such, the applicant had until May 26, 2023, to obtain a building or grading permit for the project, or to submit a written request to the Planning Division for an extension of approval.

See Attachment 3 for Resolution No. 10147 adopted on May 26, 2020.

On May 25, 2023, the applicant submitted a request to the Planning Division for a second, three-year extension of the Design Review term of approval. Pursuant to Pittsburg Municipal Code (PMC) section 18.36.240, when a written request for extension of approval is submitted within the effective period of approval, it authorizes

the reviewing body to extend the period of the approval for Design Review. The three-year extension request was submitted prior to expiration of the resolution, thereby allowing the Planning Commission to consider the request. This second request, extending the Design Review term of approval for the Esperanza Apartments at San Marco to May 26, 2026, was approved by the Planning Commission on July 11, 2023, in Resolution No. 10232.

See Attachment 4 for Resolution No. 10232 adopted on July 11, 2023.

On May 5, 2026, the applicant submitted a request to the Planning Division for a third, three-year extension of the Design Review term of approval.

#### PROJECT DESCRIPTION:

The applicant has requested approval of a third, three-year extension to extend the term of design review approval through May 26, 2029, in order to allow additional time to accommodate building permit review and issuance of the necessary building permits. The applicant has stated that they plan to build San Marco Villas Apartments, Phase 3, before this project, so the time extension would be necessary to accommodate the change in construction scheduling.

No additional changes to the project are proposed at this time, and there have been no changes in regulations applicable to this development since its original approval in 2017.

#### GENERAL PLAN/CODE COMPLIANCE:

General Plan/Zoning: The General Plan land use designation and zoning classification for the site have not changed since the initial project approval on April 25, 2017.

Environmental: The original project was within the scope of the previously approved Supplemental Environmental Impact Report ("SEIR," State Clearinghouse #91073029) prepared for the San Marco Development Plan Area, and certified by the Planning Commission on October 13, 1992. The project was in substantial conformance with the multi-family residential units analyzed in the SEIR for Village M of the San Marco Development Plan area. In accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15162, there are no substantial changes that have occurred with respect to the circumstances under which the SEIR was certified, and no new significant environmental effects, nor a substantial increase in the severity of previously identified significant effects which could require revisions to the SEIR.

Public Notice: Although not required, on or prior to May 29, 2026, a "Notice of Public Hearing" for the June 9, 2026, public meeting on this item was posted at City Hall and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the proposed project site, to local service agencies whose services might be affected by this project, and to individuals who had

previously filed written request for such notice. The notice was also posted on [www.nextdoor.com](http://www.nextdoor.com) (Nextdoor) and was sent directly to all subscribed residents in the surrounding Nextdoor neighborhoods including: 1) Toscana; 2) Vista Del Mar; 3) Landing Street; 4) San Marco; and 5) San Marco Villas.

See Attachment 5 for the Public Hearing Notice.

#### ANALYSIS:

Staff believes that there is good cause for a third, three-year extension of approval as the extension would promote continued orderly development of the San Marco Development Plan Area, and more specifically, development of the currently vacant site which has been envisioned for this type of development since the early 1990's.

The proposed project is consistent with the development that was envisioned for Village M under the San Marco Development Agreement, Development Plan, and PD zoning district, and is therefore considered consistent with the applicable 1988 General Plan. The project does not exceed the maximum allowable density for the PD District (18 units per acre) and is consistent with the conditions of approval set forth in the ordinance establishing the original PD District. With the inclusion of all original conditions of approval from 2017, the project would also be consistent with the current adopted Development Review Design Guidelines.

Further, staff believes that the proposed project's combination of high-quality architecture, resident amenities, and location being adjacent to the recently constructed Ray Giacomelli Park and less than a mile away from the Pittsburg/Bay Point BART Station, make this a desirable location for prospective residents, and help meet the need for multifamily housing in the area.

#### ACTION REQUIRED:

Move to adopt a Resolution approving a three-year extension of the Design Review term of approval for the Esperanza Apartments at San Marco, Planning Application No. 26-0060 EXT.

#### ATTACHMENTS:

1. Proposed Resolution
2. Adopted Resolution No. 10060 and Staff Report, dated April 25, 2017
3. Adopted Resolution No. 10147 and Staff Report, dated May 26, 2020
4. Adopted Resolution No. 10232 and Staff Report, dated July 11, 2023
5. Public Hearing Notice and Vicinity Map

Prepared by: Alison Spells, Senior Planner

BEFORE THE PLANNING COMMISSION OF THE CITY OF PITTSBURG

In the Matter of:

Extending the Design Review Term of )  
Approval for the Esperanza Apartments )  
at San Marco located at 2009 W Leland )  
Road immediately west of Tomales Bay )  
Drive and known as "Village M" of the )  
San Marco PD (Planned Development, )  
Ordinance No. 24-1519) District, )  
AP-2-0060 (EXT).)

Resolution No.

The Planning Commission DOES RESOLVE as follows:

Section 1. Background

- A. On January 19, 1993, the City Council adopted Resolution No. 93-7888, certifying a subsequent environmental impact report (SEIR) for a 2,938-unit project currently known as the San Marco Development. On the same evening that the City Council certified the SEIR, it adopted Ordinance No. 93-1057 zoning the San Marco Development property to a residential PD (Planned Development) District, with a PD Plan consisting of 1,412 single-family residential units and 1,526 multifamily units.
- B. On April 25, 2017, the Planning Commission adopted Resolution No. 10060 approving the site design, landscape plan, architectural elevations and building materials for the proposed Esperanza Apartments at San Marco, a 318-unit apartment complex, consisting of twelve three story buildings and one clubhouse on a 13.3-acre site located immediately west of Tomales Bay Drive and known as 'Village M' of the San Marco PD (Planned Development, Ordinance No. 12-1362) District.
- C. Condition No. 63 of Planning Commission Resolution No. 10060, allowed the applicant three years from the date of approval to obtain a building or grading permit for the project, or to submit a written request to the Planning Division for an extension of approval.
- D. On March 24, 2020, Louis Parsons of Discovery Builders, Inc., filed Planning Application No. 20-1509, requesting a three-year extension of the term of Design Review approval for the Esperanza Apartments at San Marco project approved by the Planning Commission under Resolution No. 10060 on April 25, 2017.
- E. On May 26, 2020, the Planning Commission approved the request for a three-year extension of design review approval for the project in Resolution No. 10147. Condition No. 63 of Planning Commission Resolution No. 10147 extended the project expiration date to May 26, 2023.

- F. On May 25, 2023, Louis Parsons of Discovery Builders, Inc., filed Planning Application No. 23-0074, requesting a second, three-year extension of the term of Design Review approval for the Esperanza Apartments at San Marco project approved by the Planning Commission under Resolution No. 10060 on April 25, 2017.
- G. On July 11, 2023, the Planning Commission approved the request for a second, three-year extension of design review approval for the project in Resolution No. 10232. Condition No. 63 of Planning Commission Resolution No. 10232 extended the project expiration date to May 26, 2026.
- H. On May 5, 2026, the applicant filed Planning Application No. 26-0060, requesting a third, three-year extension of the term of Design Review approval for the Esperanza Apartments at San Marco project approved by the Planning Commission under Resolution No. 10060 on April 25, 2017. The request was submitted prior to expiration of the resolution, thereby allowing the Planning Commission to consider the request.
- I. The proposed project is governed by the applicable goals and policies of the Pittsburg General Plan and the Pittsburg Municipal Code (PMC).
- J. Upon written request submitted within the effective period of approval, PMC section 18.36.240 allows the original reviewing body to extend the period to exercise an approved design review according to its terms.
- K. The General Plan land use designation and zoning classification for the site have not changed since the initial project approval on April 25, 2017.
- L. On June 9, 2026, the Planning Commission considered the request to approve Planning Application No. 26-0060, extending design review approval for three-years for the Esperanza Apartments at San Marco project, subject to conditions.

## Section 2. Findings

- A. Based on the Planning Commission Staff Report entitled, “Esperanza Apartments at San Marco (Village M), Extension of Design Review Approval, AP-26-0060,” dated June 9, 2026, and based on all the information contained in the Planning Division files on this project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue, and based on evidence presented to the Planning Commission on June 9, 2026, the Planning Commission finds that:
  - 1. All recitals above are true and correct and are incorporated herein by reference.
  - 2. Since the adoption of Planning Commission Resolution No.10060, on April 25, 2017, there have been no General Plan or Zoning Ordinance amendments related to the affected property.
  - 3. The SEIR for the project was prepared in compliance with Public

Resources Code section 21000 et seq., and there have been no substantial changes to the project or with respect to the circumstances under which the project is being undertaken which require revisions to the SEIR.

4. The design of the project has not changed since the approval of the site plan and architectural plans and elevations for this project.
5. The request for extension of the project review approval was filed within the effective period of approval, in compliance with the requirements of PMC section 18.36.240.
6. There is good cause for a third, three-year extension of the approval at this time, as it will afford the applicant additional time to secure required building and grading permits, as well as promote continued orderly development of the San Marco Development Plan Area, and more specifically, development of the currently vacant site which has been envisioned for this type of development since the early 1990's.

### Section 3. Decision

Based on the findings set forth above, the Planning Commission hereby extends the term of Design Review approval for Planning Application No. 13-932 (DR), subject to all of the conditions of Resolution No. 10060, with the exception of Condition No. 63, which is replaced by the following:

63. The design review approval will expire on May 26, 2029, unless, prior to that date, the use has been established and a building permit or grading permit has been issued for the site improvements authorized herein. The approval shall be valid for no more than twelve months from the date of building or grading permit issuance, unless work is commenced and diligently pursued prior to the expiration of the building permit.

### Section 4. Effective Date

This resolution shall take effect immediately upon its adoption.

On motion by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, the foregoing resolution was passed and adopted the 9<sup>th</sup> day of June 2026, by the Planning Commission of the City of Pittsburg, California, by the following vote:

AYES:

NAYES:

ABSTAIN:

ABSENT:

I hereby certify that the above Resolution No. \_\_\_\_\_ was adopted by the Planning Commission of the City of Pittsburg on June 9, 2026.

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JOHN FUNDERBURG, SECRETARY  
PITTSBURG PLANNING COMMISSION

**701.03**

**PC**

**RESO**

**10060**

**4-25-17**

*KT*



# City of Pittsburg

Community Development Department – Planning Division

65 Civic Avenue, Pittsburg, CA 94565 | Tel: (925) 252-4920 | Fax: (925) 252-4814

Date: May 8, 2017

SUBJECT: RESOLUTION NO. 10060

Dear Applicant,

Enclosed is a copy of the resolution adopted by the Planning Commission. A copy of our Standard Conditions of Development is also included. Please read the enclosed documents and retain them for your files. All conditions of approval shall be incorporated into subsequent plan submittals and construction documents, where appropriate.

The enclosed resolution is valid for a limited period of time as specified in the resolution. Please make a note of the applicable expiration date and plan your construction timeline accordingly to avoid the loss of your entitlements.

If you have any questions about the enclosed resolution, please contact the Planning Division at the number listed above.

Sincerely,

Kristin Pollot, AICP  
Planning Manager

Enclosures: (2) Resolution No. 10060  
Standard Conditions of Development

**Let us know how we did!** You are invited to complete an online customer service satisfaction survey to provide feedback on our planning services. We value your input and look forward to hearing how we might improve our customer experience. The survey takes less than five minutes and can be filled out at <https://goo.gl/ZZaf73>.

BEFORE THE PLANNING COMMISSION OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Granting Design Review )  
Approval of Architectural and Site )  
Development Plans to Construct a 318- ) Resolution No. 10060  
Unit Apartment Complex Along the )  
Southern Side of West Leland Road, )  
Immediately West of Tomales Bay Drive, )  
for, "Esperanza Apartments at San Marco )  
(Village M), AP-13-932 (DR)." )

The Planning Commission DOES RESOLVE as follows:

Section 1. Background

- A. On June 10, 2013, Louis Parsons of Discovery Builders, Inc., filed Design Review Application No. 13-932, requesting design review approval of plans to construct a 318-unit apartment complex along the south side of West Leland Road, immediately west of Tomales Bay Drive. The project consists of 12 three-story buildings and site improvements on 13.3 acres in 'Village M' of the San Marco PD (Planned Development, Ordinance No.12-1362) District. Assessor's Parcel No. 097-550-018.
- B. On April 3, 1990, the City Council adopted Ordinance No. 90-990, certifying a negative declaration and authorizing the execution of the Southwest Development Agreement (DA) for the development of 2,938 residential units on 639 acres in the southwest hills of Pittsburg. The DA established provisions under which the development would be built, including land use regulations, fees and assessments, and infrastructure.
- C. On January 19, 1993, the City Council adopted Resolution No. 93-7888, certifying a subsequent environmental impact report (SEIR) for the 2,938-unit project currently known as the San Marco Development. On the same evening that the City Council certified the SEIR, it adopted Ordinance No. 93-1057 zoning the San Marco Development property to a residential PD (Planned Development) District, with a PD Plan consisting of 1,412 single-family residential units and 1,526 multifamily residential units.
- D. On October 1, 2001, the Council adopted Ordinance No. 01-1187, extending the term of the DA from its original horizon year of 2002 to an amended horizon year of 2020.
- E. On February 3, 2003, the first amendment to the PD plan was adopted as a City-initiated amendment to increase lot coverage allowances for single-family homes

in this and other PD Districts (Ordinance No. 03-1204).

- F. On August 7, 2003, the second amendment to the PD plan was adopted as an applicant-initiated amendment to the San Marco Development park requirements in order to consolidate several mini-parks in the original development plan into two larger community parks, consistent with current (2001) General Plan policy in support of larger parks for more efficiency in maintenance (Ordinance No. 06-1270). This second amendment allowed single-family houses to be built on the former mini-park sites, provided that the number of multifamily units was decreased correspondingly (which resulted in an exchange of approximately 12 multifamily units for single-family units).
- G. On October 15, 2012, the third amendment to the PD plan was adopted as an applicant-initiated amendment to facilitate a exchange of single family residential units between Village A and Village O (Ordinance No. 12-1362).
- H. On April 15, 2013, the Council adopted Ordinance No. 13-1369, approving a second extension of the term of the DA from horizon year 2020 to a new horizon year of 2032.
- I. The proposed project is governed by the policies and development standards in the 1988 Pittsburg General Plan, the most recently adopted PD plan (Ordinance 12-1362), and the Pittsburg Municipal Code (PMC) regulations and development policies that predate the San Marco Development Agreement, which took effect on July 1, 1993.
- J. Development of this project site (Village M) as a multifamily residential project was envisioned in and is consistent with the most recent iteration of the PD plan, and the entire PD plan was determined to be consistent with the applicable General Plan (1988) at the time it was approved.
- K. This project is exempt from the requirements of the City's Inclusionary Housing Ordinance (PMC, section 18.86), which was adopted in 2004, because the project is subject to the San Marco Development Agreement (City Council Ordinance No. 13-1369). Provisions of this agreement expressly prohibit application of rules, regulations and policies that come into effect after July 1, 1993.
- L. The proposed project is within the scope of the SEIR (SCH #91073029) prepared for the San Marco Development Plan Area and certified by the Planning Commission on October 13, 1992. The project is in substantial conformance with the multi-family residential units analyzed in the SEIR for Village M of the San Marco Development Plan area. Furthermore, there are no substantial changes that have occurred with respect to the circumstances under which the SEIR was certified.

- M. Although not required by the PMC, on or prior to April 14, 2017, notice of the April 25, 2017, public meeting to consider design review of the proposed project was posted at City Hall, the Pittsburg Library, near the proposed project site, and on the "Public Notices" section of the City's website; was delivered for posting at the Pittsburg Library; and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the proposed project site, to local service agencies expected to provide services to the site, and to individuals who had previously filed written request for such notice.
- N. On April 25, 2017, the Planning Commission held a meeting on Design Review Application No. 13-932, at which time oral and/or written testimony was considered.

## Section 2. Findings

- A. Based on the Planning Commission Staff Report entitled, "Esperanza Apartments at San Marco (Village M), AP-13-932 (DR)," and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the meeting, the Planning Commission finds that:
1. All recitals above are true and correct and are incorporated herein by reference.
  2. The proposed project is within the scope of the SEIR (SCH #91073029) prepared for the San Marco Development Plan Area and certified by the Planning Commission on October 13, 1992. The project is in substantial conformance with the multi-family residential units analyzed in the SEIR for Village M of the San Marco Development Plan area. Furthermore, there are no substantial changes that have occurred with respect to the circumstances under which the SEIR was certified.
  3. The structures conform with good taste, good design and in general contribute to the character and image of the city as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality, in that the proposed project features 'Mediterranean' architecture characterized by Spanish tile hipped roofs, integrated towers and cupolas, plaster exterior finishes, arched windows and walkway entries, grid-patterned glass, decorative ironwork, and tile borders and accents. The proposed project will also provide direct access to the adjacent Ray Giacomelli Park, which offers residents additional recreational amenities.
  4. The structures will be protected against exterior and interior noise, vibrations and other factors which may tend to make the environment less

desirable, in that mitigation measures for these factors have been evaluated in the SEIR prepared for the San Marco Development Plan. The mitigation measures to be implemented with the construction of the proposed project require the developer ensure interior spaces exposed to 60 dB exterior noise levels be provided with mechanical ventilation so that windows can be closed, provide sound rated glazing, or submit an acoustical study that recommends measures necessary to attain the acceptable noise level performance standards established in the City's current General Plan for multi-family development.

5. The exterior design and appearance of the structures are not of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance. The proposed structures feature 'Mediterranean' architecture characterized by Spanish tile hipped roofs, integrated towers and cupolas, plaster exterior finishes, arched windows and walkway entries, grid-patterned glass, decorative ironwork, and tile borders and accents, which evoke the feeling of resort-style living.
  6. The structures are in harmony with proposed developments on land in the general area, in that the proposed architecture and theme of the Esperanza Apartments at San Marco are complimentary to the overall architectural theme of other multifamily developments and the detached single family homes in the San Marco Development Plan area.
  7. Although not required for this project (given the terms of the San Marco Development Agreement), the application will conform with the city adopted Development Review Design Guidelines (DRDGs), specifically sections I.a, VI.C.3, VI.C.5, VI.C.7, and VI.C.8, if conditions are added to require: 1) air conditioning units and other utilities be undergrounded or substantially screened from public view; 2) prewiring for solar panels is provided on all new carports; 3) the developer install two electric vehicle charging stations, as well as prewire for an additional 10 stations; 4) at least 16 bike parking spaces are provided for guests within outdoor racks, to be evenly distributed throughout the site; 5) permanent wall mounted bike storage systems are provided within each garage unit for residents; and 6) the project incorporates the most recent acceptable best management practices for water-efficient landscape design, consistent with PMC section 18.84.310.
- B. The staff report entitled, "Esperanza Apartments at San Marco (Village M), AP-13-932 (DR)," dated April 25, 2017, is referenced hereto as additional support for the findings.

### Section 3. Decision

- A. Based on the findings set forth above, the Planning Commission hereby

approves Design Review Application No. 13-932, subject to the following conditions:

1. The project shall be constructed in substantial conformity with the project plans date stamped March 10, 2017, except as hereinafter may be modified.
2. The site shall be kept clean and free of all litter, debris and refuse, and all landscaping on site shall be kept weed free and maintained in a healthy condition.
3. The walls and ceilings for all breezeways shall be painted Body Color 1, Kelly Moore 'Toasted Oatmeal' (KM4527-1).
4. Lighting shall be installed within all breezeways and shall be on sensors to ensure that adequate lighting is provided during all hours of the day.
5. Lighting installed along the outside of the clubhouse and garages shall be decorative wrought iron accent sconces similar to those proposed along the residential building elevations. Final design of the sconces shall be subject to review and approval by the Planning Division prior to the issuance of a building permit.
6. A minimum 100 square foot pervious area shall be made available on the site as a location for residents to maintain a community garden. The developer shall place a sign at the garden site indicating the availability of the space for a garden. The developer shall also provide an outdoor faucet at the site for irrigation as needed.
7. Prior to issuance of a certificate of occupancy for each building, the developer shall install minimum six-inch high block style numbers at two points on each building façade for purposes of address identification. The numbers shall be in a color that is contrasting to the background surface to which they are adhered and shall be readily visible from the closest parking lot aisle.
8. A minimum of 16 bicycle parking spaces shall be provided for residents and/or guests. Bicycle parking facilities shall be divided into a minimum of two separate areas. The bicycle rack(s) may be covered by a shelter. The design, color and proposed location of the racks shall be reviewed and approved by the Planning and Engineering Divisions prior to issuance of a building permit.
9. The developer shall install a minimum of one bollard-style self-service bicycle repair station adjacent to one of the required bicycle parking facilities to allow residents to perform basic repairs and maintenance. The

final location and design of the bicycle repair station shall be subject to review and approval by the Planning Division prior to installation.

10. One permanent wall mounted bike storage system shall be provided inside of each garage unit for use by residents.
11. The following proposed carports shall be designed with a pitched roof and finished with roofing materials similar to those used on the main dwelling units:
  - a. The westernmost carports adjacent to the future park between proposed buildings 1 and 8;
  - b. The carports adjacent to West Leland Road between proposed buildings 2 and 3.
12. The developer shall install a minimum of two (2) electric vehicle charging stations, and prewiring for an additional 10 electric vehicle charging stations.
13. Carport roofs shall be equipped with prewiring for solar collector or photovoltaic panels.
14. Building roofs shall be equipped with prewiring for solar collector or photovoltaic panels.
15. All pedestrian pathways throughout the site shall include pedestrian scale lighting fixtures less than 12 feet in height, or low-level pathway lights. Final pathway lighting design and placement shall be subject to review and approval by the Planning Division prior to installation.
16. A lockable access gate shall be installed southwest of Building 6, as shown in the approved project plans.
17. All utility equipment, including utility boxes, transformers, meters, and junction boxes shall be undergrounded whenever possible (see Condition No. 63, below). All air conditioning units (in private and common areas) and utility equipment which cannot be undergrounded shall be substantially screened from view by way of a permanent screen or appropriately sized plant material (City of Pittsburg DRDG II.h and III.a). The final method and design of the screening shall be reviewed and approved by the Planning and Engineering Divisions prior to issuance of an engineering or building permit.
18. The developer shall provide a lighting and photometric plan showing the location, type, and design of all outdoor lighting including but not limited to

exterior building lighting (fixed and freestanding), lights for pedestrian and/or automobile circulation, security, landscaping, and building accents.

19. Prior to issuance of a building permit, the developer shall submit a detailed landscaping and irrigation plan and other documentation as required by the state model water efficient landscaping ordinance or other local water efficient landscaping ordinance in effect at the time the developer applies for a building permit. Prior to issuance of a certificate of occupancy, the developer shall complete and submit all certifications confirming that the landscaping and irrigation were installed in compliance with the approved detailed landscaping and irrigation plan, as required pursuant to the applicable ordinance in effect at the time the developer applies for a building permit.
20. The project shall incorporate the most recent acceptable best management practices for water-efficient landscape design, consistent with PMC section 18.84.310.
21. Trash enclosures and compactors shall incorporate architectural details and a matching tile and hipped roof, instead of a metal roof as indicated on Sheet A8 of the project plans.
22. All trash enclosures shall be sized in order to meet the requirements of Assembly Bill (AB) 341. Final design shall be subject to review and approval by the Planning Division prior to the issuance of a building permit.
23. The 12-foot long rear wall of the trash enclosure shall be extended four (4) feet in order to screen views into the trash area.
24. All trash enclosures and trash compactors shall be stucco-finished and painted to match the main apartment buildings and/or garages on site. Final design shall be subject to review and approval by the Planning Division prior to the issuance of a building permit.
25. Trash enclosures shall be constructed with a low berm at their entrances or its interior floor shall be sloped slightly so as to prohibit waste liquids from discharging out of the enclosure and entering a storm drain. Storm drains shall not be located within the drainage area of the enclosure.
26. The developer shall label all onsite storm drains with "No Dumping Drains to River" stencils or other medium and similar message approved by the Planning Division.

Applicable Mitigation Measures:

27. The project shall be designed to comply with the mitigation measures and performance standards specified in the San Marco Subsequent Environmental Impact Report (SEIR; SCH #91073029), for the San Marco Development Plan Area. Where there is conflict between the mitigation measures and performance standards specified in the SEIR and the specific conditions of approval specified in this resolution, the SEIR shall govern. These mitigation measures include but are not limited to the following:

a. Noise:

- i. Interior spaces exposed to 60 dB or greater exterior noise levels shall be provided with mechanical ventilation so that windows can be closed. In some cases, sound rated glazing may be required.
- ii. To reduce identified impacts, project construction shall be limited to weekdays between 8:00 a.m. and 5:00 p.m. All equipment used in the project shall be muffled and maintained.

These measures shall be reflected on building and site development plans and shall be subject to review and approval by the Planning Division prior to issuance of a site development permit or building permit. Alternatively, the developer may comply with this condition of approval by submitting an acoustical study conducted by a professional acoustical engineer that evaluates the existing noise levels on the site and recommends measures necessary to attain the acceptable noise level performance standards established in the City's current General Plan for multi-family development. If an acoustical study is prepared, it shall be submitted to the Planning Division for review and approval prior to issuance of a grading permit. If applicable, any new recommended mitigation measures identified in the acoustic study shall be implemented in the building plans and site development plans for the project and shall be subject to review and approval of the Planning Division prior to issuance of a site development permit or building permit.

b. Transportation:

- i. The applicant shall provide all residents, upon request, information on available public transit opportunities.
- ii. The project shall be required to pay the Local Traffic Mitigation Fee to offset City-wide traffic impacts (see Condition No. 34).
- iii. The project shall be required to pay the Regional Traffic Mitigation Fee to offset City-wide traffic impacts (see Condition No. 35).

- iv. To mitigate onsite intersection impacts, signalize the Village M access drive (see Condition No. 42).

c. Soils and Geology:

- i. Grading/foundation designs shall be prepared for each lot based on a standard soils test performed by a qualified geotechnical professional on each lot after mass grading has been completed, and an associated report recommending appropriate lot-specific foundation design, soil preparation, and selective grading measures.

A drainage plan shall be prepared by a registered civil engineer for each lot in compliance with the provisions listed in SEIR section IV.D.3.b(1) to avoid impacts of expansive earth materials due to improper surface drainage.

- ii. A project erosion control plan shall be prepared and implemented by the project civil engineer and a qualified geotechnical professional. The plan shall include construction of "V"-lined ditches on all graded slopes, shall designate all drainageways as public storm easements, shall incorporate ABAG-recommended erosion control measures, and should incorporate best management construction practices.
- iii. To mitigate the potential effects of differential settlement: 1) all fill shall be placed so as to minimize settlement; 2) subsurface drains shall be placed under all fills; 3) a fill settlement monitoring program shall be implemented.
- iv. Seismic-related hazards may be offset through construction of project buildings and foundations, underground utilities, and other improvements in compliance with all public agency requirements.
- v. Groundwater-related geotechnical hazards shall be offset by construction of a subsurface drainage system in all fill areas (especially all springs and streams to be covered), construction of trench drains across all onsite valleys in which fill is proposed to extend offsite, subdrainage measures as needed at utility trenches, design of a surface drainage system which will not create adverse impacts on the groundwater regime, and education of maintenance staff regarding the hazards of over-irrigation of landscape areas.
- vi. Onsite grading shall be balanced to the extent possible to reduce or eliminate necessary offsite hauling of dirt.

d. Drainage and Water Quality:

- i. Prior to construction, a hydrology report describing the project drainage system design details must be submitted to all affected agencies. The report must present a complete hydraulic analysis of discharge from the project beneath Highway 4, and the capacity of the proposed retention basins.
- ii. The project grading plan shall include an approved drainage and erosion control plan and an associated ongoing inspection program, as described in SEIR sections IV.D.3 (Soils and Geology) and IV.E.3.b (Drainage and Water Quality).

e. Air Quality:

- i. Construction period air quality impacts should be reduced through implementation of the construction practices described in SEIR section IV.J.3(a), including:
  - Suspending earth-moving or other dust-producing activities during periods of high winds when dust control measures are unable to avoid visible dust plumes;
  - Providing equipment and staffing for watering of all exposed or disturbed soil surfaces sufficient to suppress dust plumes including weekends and holidays. An appropriate dust palliative or suppressant added to water before application should also be utilized;
  - Watering or covering stockpiles of debris, soil, sand, or other materials that can be blown by the wind;
  - Sweeping construction area and adjacent streets of all mud and debris since this material can be pulverized and later resuspended by vehicle traffic;
  - limit the speed of all construction vehicles to 15 miles per hour while on site
  - all materials transported by truck should be covered or wetted down as needed to suppress visible dust; and
  - all excavated inactive portions of the site should be watered with an appropriate dust suppressant covered or seeded.

f. Municipal Services:

- i. The developer shall submit school impact fees prior to issuance of an engineering or building permit.

g. Cultural Resources:

- i. An archeologist familiar with the history of the site shall be present to monitor site clearing and grading to identify and remove and significant artifacts in this area and 19<sup>th</sup> century artifacts discovered in this process. All known and discovered historic resources shall be catalogued and described in a summary archaeological report which will constitute preservation of the site's cultural resources in written form.

Engineering Fees:

*Improvement and Grading Plan Review fees:*

28. The developer shall pay one half of the Engineering Grading and/or Improvement Plan Review Fee with the initial submittal of plans, maps, or other documents for plan review. The Plan Check Fees are based upon the Engineer's Estimate, which shall also be provided at the time the plans are submitted. The Improvement Plan Check fees are 3.5% of the cost of the improvements based upon the approved Engineer's Estimate. The Grading Plan Check Fee is 2.5% of the Engineer's Estimate, or may be based upon cubic yards of grading. The deposit(s) shall be credited toward the final fee(s) as determined at engineering permit issuance based upon the final, approved Engineer's Estimate. The deposit shall be paid to the Engineering Division.

*Improvement and Grading Inspection Fees:*

29. The developer shall pay the Improvement and/or Grading Inspection Fee(s) to the Engineering Division at the time of the Grading or Single Parcel Development Permit is issued. The current Improvement Inspection Fee is 5% of the cost of grading, and the Grading Inspection Fee is 3% of the cost of Grading. The Grading Inspection Fee may also be based upon an approved Engineer's Estimate of total cubic yards, according to the current schedule of Grading Fee Charges.

*LIS Update Fees:*

30. The developer shall pay \$100 per unit to the Engineering Division at the time of the issuance of the Site Development Permit to update the City Land Information System.

*NPDES:*

31. The developer shall pay an NPDES Plan Review (SWPPP and/or C.3 Storm Water Control Plan) fee to the Engineering Division in the amounts in effect when the developer obtains a Grading permit. The developer understands that the current NPDES plan review fee on file, effective September 1, 2010, shall be paid in accordance to the fee schedule approved by Resolution No.

10-11510, a copy of which is available at the City.

32. The developer shall pay an NPDES Inspection Deposit (SWPPP and/or C.3 Storm Water Control Plan) fee to the Engineering Division in the amounts in effect when the developer obtains a Grading permit. The developer understands that the current NPDES plan review fee on file, effective September 1, 2010, shall be paid in accordance to the fee schedule approved by Resolution No. 10-11510, a copy of which is available at the City.

*Facility Reserve Charge:*

33. The developer shall pay the City of Pittsburg Facilities Reserve Charge (FRC) (PMC Chapters 13.08, 13.12 and 13.24) to the Engineering Division for water and sewer service in the amounts in effect when the developer obtains a Building Permit. The developer understands that the current FRC on file, effective August 20, 2005, shall be paid in accordance with the fee schedule approved by Resolution No. 05-10291, and amended by Resolutions No. 05-10372 and No. 12-11778, on February 21, 2012, copies of which are available at the City. The FRC shall be paid to the Engineering Division prior to the issuance of a Building Permit.

*Traffic Mitigation Fees:*

34. The developer shall fulfill their Local Transportation Mitigation Fee ("LTMF") requirements in accordance with the Memorandum of Understanding for payment of Local Transportation Mitigation Fees dated December 22, 1992, as amended and approved by City Council with the adoption of Resolution 93-7890. The developer understands that the LTMF currently on file is \$4,860 per multifamily dwelling unit. The developer further understands that the LTMF is reviewed and adjusted annually to the current Construction Cost Index (CCI) and may be increased at the City Council's discretion based on revised cost estimates for roadway and transit facilities and other factors that demonstrate an increase is needed to offset traffic impacts caused by new development. The LTMF is calculated by dividing the total fee share of improvement costs by the total number of Dwelling Unit Equivalencies ("DUE") in the City, as described in PMC Chapter 15.90 and the Pittsburg Local Transportation Mitigation Fee Program Update, copies of which are available from the City. Fees shall be paid prior to issuance of a building permit by the City's Building Division.
35. The developer shall pay the Regional Transportation Mitigation Fee ("RTMF") to the Engineering Division prior to the issuance of a building permit. The Developer shall fully comply with the Memorandum of Understanding dated June 29, 2010, as amended and approved by City Council Resolution 13-11963, including payment of the fees referenced

therein.

*Parkland Dedication:*

36. The developer shall fulfill their Parkland Dedication requirements in accordance with the 3<sup>rd</sup> Amendment to the San Marco Development Agreement.

Engineering Submittals:

37. The developer shall submit to the City's Engineering Division, for review and comment, five (5) copies of the engineering plans, prepared by a registered civil engineer, to include but not be limited to the following:
  - a. A Site Plan
  - b. A Grading and Drainage Plan
  - c. A Utilities Plan
  - d. A Landscaping and Irrigation Plan
  - e. A Stormwater Control Plan and Report
  - f. An Erosion and Sedimentation Control Plan
  - g. A Joint Trench Plan
38. The developer shall submit to the Engineering Division a current geotechnical report that substantiates the design features incorporated into this project, including but not limited to grading activities, compaction requirements, utility construction, slopes, retaining walls, and roadway sections. The geotechnical report shall be submitted to the Engineering Division for review prior to the approval of any civil plans and issuance of any Engineering permits.
39. The developer shall submit an Engineer's Estimate to the Engineering Division for review and approval with the first plan submittal. This estimate shall include all costs associated with the site development improvements, excluding those costs associated with the construction of the building structure itself.

General Engineering Conditions

40. All grading work shall be done in accordance with the provisions of Chapter 15.88 of the Pittsburg Municipal Code.
41. All site development shall comply with Title 12 (Streets, Sidewalks, and Utilities), Title 13 (Water and Sewers), and Title 15 (Buildings and Construction) of the Pittsburg Municipal Code as determined by the City Engineer. Issuance of a Site Development Permit shall be required, whereby specific engineering requirements will be made as conditions of approval.

42. The developer shall design and construct a traffic signal and median modifications on West Leland at the project entrance. The design of the traffic signal and median modifications, including installation of crosswalks as appropriate, shall be subject to approval by the City Engineer.
43. The developer shall provide the City with a Public Utility Easement (PUE) along West Leland Road for access to the water meter and backflow device. Services for water and sewer shall terminate behind the sidewalk at meters and lower laterals, within the PUE.
44. The developer shall provide the City with a sanitary sewer manhole structure within the utility easement to be dedicated to the City along West Leland Road.
45. The developer shall provide the City with an easement for access and maintenance of the 36" storm drain system that conveys the stormwater from the south eastern portion of the site to the northeastern portion of the property.
46. All public and pedestrian facilities shall be designed in accordance with Title 24, Handicap Access, and the California Department of State Architect's standards for accessibility compliance.
47. The developer shall provide a minimum 6-foot wide sidewalk along West Leland Road, spanning the length of the property limits along West Leland Road and connecting to existing sidewalks on either side of the property.
48. The developer shall ensure all stormwater runoff is retained within the project boundaries.

General NPDES Conditions:

49. Prior to issuance of a Grading Permit, the developer shall submit to the Engineering Division for review an Erosion and Sedimentation Control Plan and a copy of the Notice of Intent (NOI), which was submitted to the State Water Resources Control Board. The erosion control/SWPPP shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The SWPPP measures shall also include erosion control measures to prevent soil, dirt, and debris from entering the storm drain system, in accordance with the regulations outlined in the ABAG Erosion and Sediment Control Handbook.
50. The developer shall incorporate long-term BMPs for the reduction or elimination of storm water pollutants. The project design shall incorporate, wherever feasible, the following long term BMPs to limit pollutant generation, discharge, and runoff. Such source control design measures may include:

- a. incorporating landscaping that minimizes irrigation and runoff, promotes surface infiltration where possible, minimizes the use of pesticides and fertilizers, and incorporates appropriate sustainable landscaping practices;
  - b. providing covered trash, food waste, and compactor enclosures;
  - c. use of pavers for walkways and other appropriate hardscape surfaces to minimize impervious areas;
  - d. minimizing the amount of directly connected impervious surface area;
  - e. constructing concrete driveway weakened plane joints at angles to assist in directing run-off to landscaped/pervious areas prior to entering the street curb and gutter; and
  - f. plumbing of the following discharges to the sanitary sewer, subject to Delta Diablo Sanitation District's authority and standards:
    - i. Discharges from indoor floor mat/equipment/hood filter wash racks or covered outdoor wash racks for restaurant.
    - ii. Dumpster drips from covered trash and food compactor enclosures.
    - iii. Discharges from outdoor covered wash areas for vehicles, equipment, and accessories.
    - iv. Fire sprinkler test water, if discharge to onsite vegetated areas is not a feasible option.
51. Grading and/or building permit plans (including structural, mechanical, architectural, grading, drainage, site, landscape, and other drawings) shall show the details and methods of construction for site design featured, measures to limit directly connected impervious area, pervious pavements, self-retaining areas, treatment BMPs, permanent stormwater control BMPs, and other features that control stormwater flow and potential for stormwater pollutants.
52. The developer shall evaluate the existing, receiving storm, sewer, and water facilities for adequate capacity and provide the results to the City to identify any service or supply problems. The cost for installation of additional facilities shall be borne by the developer.
53. The design and construction of storm drain, water, and sewer facilities shall be in accordance with Section 17.28.020 of the Pittsburg municipal Code.
54. The developer shall provide appropriate water service, adequately sized to meet the domestic and fire protection demands for the project.
55. The developer shall provide appropriate sanitary sewer, adequately sized to accommodate the project's wastewater demand.
56. In accordance with PMC12.36.130, the developer shall ensure that all utility service laterals and equipment (including, but not limited to, electric,

communication and cable television lines) installed in and for the purpose of supplying service to any other new construction or use shall be installed underground on the property to be served, and from the property to be served to the point of connection with the utility's distribution facilities, in accordance with utility filed rules as approved by the California Public Utilities Commission or as approved by the City Engineer.

Landscaping located within the Public Right of Way:

57. The developer shall provide a Central Irrigation System that is compatible with Rainmaster DX 2 Evolution, with a remote control included with the package. The installation of this system shall be certified by a John Deere Landscapes United Greentech representative prior to the City's acceptance of the installation.
58. The developer shall design the landscaping within the areas of public right of way in accordance with the provisions of Section 18.84.320 of the Pittsburg Municipal Code, and current standard details dated May 2007.

Additional Engineering Exactions:

59. The developer may elect to annex into Community Facilities District (CFD) 2017-1 for Fire Safety Services once the district has been established. If the developer elects to annex into CFD 2017-1, the developer shall deliver written approval, in a manner acceptable to the Community Development Director, stating that the owner of the parcel is electing to annex the subject property into CFD 2017-1.

Standard Conditions:

60. The applicant shall comply with all the requirements of the Community Development Department, Contra Costa County Fire Protection District, Delta Diablo Sanitation District, and all other applicable local, state and federal agencies.
61. The Standard Conditions of Development as adopted by the Pittsburg Planning Commission by Resolution No. 8931 shall apply as conditions of approval for this project as applicable. Where there is conflict between the Standard Conditions of Development and the specific conditions of approval specified in this resolution, the specific conditions of this Resolution No. 10060 shall govern.
62. Developer agrees to indemnify, defend, and hold harmless the City, its officials, officers, employees, agents and consultants from any and all administrative, legal or equitable actions or other proceedings instituted by any person challenging the validity of this project approval, subsequent

project approval, or other action arising out of, or in connection with, this project approval. The parties shall cooperate in defending such action or proceeding. The parties shall use reasonable efforts to select mutually agreeable defense counsel but, if the parties cannot reach agreement, City may select its own legal counsel at developer's sole cost and expense. Developer may select its own legal counsel to represent developer's interests at developer's sole cost and expense. Developer shall pay for City's costs of defense, whether directly or by timely reimbursement to City on a monthly basis. Such costs shall include, but not be limited to, all court costs and attorneys' fees expended by City in defense of any such action or other proceeding, plus staff and City Attorney time spent responding to and defending the claim, action or proceeding.

63. This design review approval will expire on April 25, 2020, unless a building permit or grading permit has been issued for purposes of construction of this project, or a written request for an extension is filed with the Planning Division prior to the expiration date and is subsequently approved by the Planning Commission. The approval shall be valid for no more than six months from the date of permit issuance, unless work commences and diligently pursued prior to the expiration of the permit.

#### Section 4. Effective Date

This resolution shall take effect immediately upon its adoption.

On motion by Commissioner Coniglio, seconded by Commissioner Fardella, the foregoing resolution was passed and adopted the 25<sup>th</sup> day of April, 2017, by the Planning Commission of the City of Pittsburg, California by the following vote:

AYES: Coniglio, Croskey, Fardella, Foster, Gargalikis, Guerrero

NAYES:

ABSTAIN:

ABSENT:

I hereby certify that the above Resolution No. 10060 was adopted by the Planning Commission of the City of Pittsburg on April 25, 2017.



KRISTIN POLLOT, AICP, SECRETARY  
PITTSBURG PLANNING COMMISSION

**STANDARD CONDITIONS OF DEVELOPMENT**  
(Planning Commission Resolution No. 8931)

All projects approved by the Planning Commission must meet the following standard conditions unless specifically exempted by the Commission or Council.

A. Project Site.

1. The applicant shall comply with all regulations and code requirements of the Building Division, Engineering Division, Contra Costa Fire Protection District, the Police Department and any other agencies requiring review of the project. If required, these agencies shall be supplied copies of the final building and site plans.

2. Developer shall provide written notification to adjacent property owners for any drainage work required to collect or convey storm water runoff, which may or will affect their properties.

3. During construction water trucks or sprinkler systems are to be used in sufficient quantities to prevent dust from leaving the site during any earthmoving and/or construction activities. Nonpotable water shall be used from a source approved by the City Engineer. (Title 15 of PMC)

4. Continuous 6" high Portland Concrete Cement curbing shall be provided between all driveways and landscaped areas as indicated in the City of Pittsburg Standard Details. In addition to above, curbing between length of parking space and landscaped area shall include a 12" wide "Courtesy Curb."

5. CC&R's (Covenants, Conditions and Restrictions) for the project shall contain appropriate provisions for joint maintenance of any infrastructure, roadways, utilities, landscaping and irrigation as determined necessary by the City Engineer.

6. Developer shall submit a study addressing on and off-site storm water and sewer system capabilities. If the study indicates that the present system is inadequate, the developer must provide plans and install any additional storm water and sanitary and sanitary sewer facilities including off-site improvements to correct storm water runoff and sanitary sewer demands anticipated for upstream buildout in accordance with the Pittsburg General Plan.

7. Environmental and engineering studies, as directed by the Planning and Building Director, must be complete and on file prior to commencement to plan checking. Developer shall install off-street improvements determined necessary by the City Engineer to provide safe traffic conditions.

8. Developer shall underground existing and required on and off-site utilities as specified in Chapter 17 of the Municipal Code or as deemed necessary by the City Engineer.

9. All site development shall comply with title 12 (Streets, Sidewalks and Utilities), Title 13 (Water and Sewers) and Chapter 15.88 (Grading, Erosion and Sediment Control) of the Pittsburg Municipal Code as determined by the City Engineer. Issuance of a site development permit will be required whereby specific engineering requirements will be made as conditions of approval of that permit.

10. The CC&R's shall restrict the storage of recreational vehicles on this site or parcels unless they are the principle source of transportation for the

owner and prohibit parking on the public street for long than 72 hours.

11. All retaining wall adjacent to public right-of-ways shall be provided with decorative treatment, subject to approval by the Planning Division.

12. The design of any masonry soundwall shall be approved by the Planning and Building Department. It shall match or harmonize with existing soundwalls of neighboring projects along that street.

B. Architecture.

1. All mechanical, irrigation, ground and/or roof mounted equipment shall be architecturally screened from view from all public right-of-ways prior to issuance of certificate of occupancy.

2. All trash enclosures shall be constructed of masonry material with self-enclosing doors and have a second access. The enclosure shall have materials and colors consistent with the primary building.

3. All vents, gutters, downspouts, flashing electrical conduits, etc., shall be painted or finished to match the color of the adjacent surface unless otherwise directed by the Planning Commission.

4. Soffits and other architectural elements visible from view but not detailed on the plans shall be finished in a material in harmony with the exterior of the building.

5. Finish quality of exterior design elements including, but not limited to, building façades and landscaping shall be subject to approval of the Planning Division prior to issuance of Certificate of Occupancy.

C. Landscaping.

1. Specific landscaping for screening shall have an appearance of mature growth subject to a field check and approval by the Planning Division prior to Certificate of Occupancy.

2. The area under the drip line of all existing trees, which are to be saved, shall be fenced during construction. Grading shall be restricted under them to prevent soil compaction around the trees and to protect them from damage.

3. An existing tree inventory shall be created and included on the site plan for all new projects prior to approval of grading plan.

4. All slope banks in excess of five (5) feet in vertical height and 2:1 or greater slope shall be landscaped and irrigated for erosion control and to soften their appearance as follows: one 15-gallon or larger size tree per each 150 sq. ft. of slope area, one 1-gallon or larger size shrub per each 100 sq. ft. of slope area, and appropriate ground cover 12-24 inches on-center. In addition, slope banks in excess of eight (8) feet in vertical eight and 2:1 or greater slope also include one 5-gallon or larger size tree per each 250 sq. ft. of slope area. Trees and shrubs shall be planted in staggered clusters to soften and vary slope plane. Slope planting required by this condition shall include a permanent irrigation system to be installed by the developer prior to occupancy.

5. All planting shall be maintained in good growing condition. Such maintenance shall include, where appropriate, pruning, mowing, weeding, cleaning of debris and trash, fertilizing and regular watering. Whenever necessary, planting shall be replaced with other plant materials to insure continued compliance with applicable landscaping requirements. Required

irrigation systems shall be fully maintained in sound operating condition with heads periodically cleaned and replaced when missing to insure continued regular watering of landscape areas, and health and vitality of landscape materials.

D. General Requirements

1. Final inspection for occupancy permits will not be granted until all construction and landscaping is complete in accordance with approved plans.
2. The applicant shall defend, indemnify and hold harmless the City of Pittsburg, its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul this approval, or any aspect of the City's consideration of applicant's project. The applicant recognizes and agrees that applicant's voluntary commitment to meet the obligations described in this condition is an integral factor in the City's approval of this project. The intent of this condition is to require the applicant to bear the cost of any and all litigation instituted to overturn or in any way modify the City's approval of this project. Such costs include without limitation, any award of attorney's fees and costs to a prevailing plaintiff or petitioner. In the event the city becomes aware of any such claim, action, or proceeding, the City shall promptly notify the applicant and shall cooperate fully in the defense. If the City fails to promptly notify the applicant, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City. Nothing contained in this condition prohibits the City from participating in the defense of any claim, action, or proceeding, if both the following occur:
  - (a) the City bears its own attorneys' fees

and costs; and (b) the City defends the action in good faith. The applicant shall not be required to pay or perform any settlement unless the applicant approves the settlement.

3. It is required by State Law (Business and Professional Code Section No. 5537 & 5538 and Section 302(b) of the Uniform Building Code) that all commercial buildings, new or existing must have a licensed professional designer (Architect, Civil or Structural Engineer) to design all changes of use or occupancy as well as new construction.
4. The applicant shall submit a complete area water pressure availability study for all phases of the Project prior to issuance of any development permits. If the study indicates that the present system is inadequate, the Applicant must provide plans, which will demonstrate any remedial action necessary to abate the deficiency and shall take all necessary actions at the applicant's expense.
5. This use permit may be recalled to the Planning Commission for review at any time due to complaints regarding lack of compliance with conditions of approval, traffic congestion, noise generation, or other adverse operating characteristics. At such time, the Commission may revoke the use permit or add/modify conditions approval.
6. It is the responsibility of the applicant or developer to check with each agency for requirements that may pertain to their project.
7. All signs shall be submitted to the Planning Division for design review per Title 19 of the Pittsburg Municipal Code.
8. All landscape areas shall be maintained in a healthy, thriving and weed free condition.

9. The site shall be maintained in a neat and clean manner free of trash and debris.

10. All outdoor mechanical equipment, satellite dishes, fire main and all rooftop equipment shall be fully visually screened upon installation subject to the approval of the Planning Division. Screening devices shall be shown on construction and/or landscape plans.

11. All exterior light fixtures shall be shown on plans subject to staff review and approval. All lights attached to buildings shall provide a soft "wash" of light against the wall. All building and parking or yard lights shall conform to City Parking Standards 18.78.050 (F) and Performance Standards 18.82.030 (B) and shall compliment the site and building architecture.

12. Prior to occupancy, the developer shall supply the City with an ACAD computer disk file showing plans that reflect the project as it was build (As-Builts) at the discretion of the Planning and Building Director.

E. Standard Conditions of Approval Requiring Minimum Construction Site Management Practices

**1. (Projects involving land disturbances of less than five (5) acres)** – During construction activities, the project sponsor shall reduce or prevent to the maximum extent practicable the direct or indirect discharge of any pollutant into the storm drain system utilizing best management practices contained in the California Storm Water Best Management Practices Handbook for Construction Activities. Construction activities include, but are not limited to: watering operations; roadwork and paving operations; concrete and painting; structure construction and painting; construction material storage and

handling; construction waste/debris storage and disposal; and, construction equipment/vehicle cleaning, maintenance and fueling operations. The project sponsor is also responsible for training all contractors and subcontractors on the best management practices which are identified in the California Storm Water Best Management Practices Handbook for Construction Activities which will be available at the pre-construct meeting of the project.

or

**2. (Projects involving land disturbances of five (5) acres or more)** – Prior to commencement of any site work that will result in a land disturbance of five acres or more, the project sponsor shall submit to the City a copy of the Notice of Intent (NOI) sent the State Water Resources Control Board and the Stormwater Pollution Prevention Plan (SWPPP) prepared for the project, as required by the State's General Construction Activity Permit.

3. All storm drains, which serve the site, shall be protected from spills and soil runoff (from unpaved parking areas). The applicant may use "Any Source Control" BMP (Best Management Practice) as listed in the California Storm Water Best Management Practice Handbook for storm water run-off for commercial and industrial sites. Storm drains will be inspected periodically. Questions may be referred to City NPDES Coordinator, at 252-4920.

**CITY OF PITTSBURG  
PLANNING COMMISSION  
STAFF REPORT  
April 25, 2017**

ITEM:           **No. 3 - ESPERANZA APARTMENTS AT SAN MARCO (VILLAGE M),  
AP-13-932 (DR).**

ORIGINATED BY: Kevin English, Discovery Builders, Inc., 4061 Port Chicago Highway, Suite H, Concord, CA 94520

SUBJECT: This is a request for design review approval of plans to construct a 318-unit apartment complex along the south side of West Leland Road, immediately west of Tomales Bay Drive. The project consists of 12 three-story buildings and site improvements on 13.3 acres in 'Village M' of the San Marco PD (Planned Development, Ordinance No.12-1362) District. Assessor's Parcel No. 097-550-018.

RECOMMENDATION:

Staff recommends that the Commission adopt Resolution No. 10060, approving Design Review Application No. 13-932, subject to conditions.

BACKGROUND:

San Marco Development Agreement: On April 3, 1990, the City Council adopted Ordinance No. 90-990, certifying a negative declaration and authorizing the execution of the Southwest Development Agreement (DA) for the development of 2,938 residential units on 639 acres in the southwest hills of Pittsburg. The DA established provisions under which the development would be built, including land use regulations, fees and assessments, and infrastructure. On October 1, 2001, the Council adopted Ordinance No. 01-1187, extending the term of the DA from 2002 to 2020. On April 15, 2013, the Council adopted Ordinance No. 13-1369, approving a second extension of the term of the DA from 2020 to 2032.

San Marco PD Plan: On January 19, 1993, the City Council: adopted Resolution No. 93-7888, certifying a subsequent environmental impact report (SEIR) for the San Marco Development, and adopted Ordinance No. 93-1057, zoning the San Marco Development property to a residential PD (Planned Development) District, with a PD Plan consisting of 1,412 single-family residential units and 1,526 multifamily residential units. The PD plan has been amended on three separate occasions since the original ordinance was adopted in 1993. The first amendment occurred in 2003 and was a City-initiated amendment to increase lot coverage allowances for single-family homes in this and other PD Districts (Ordinance No. 03-1204). The second amendment in 2006 was applicant-initiated, and amended the San Marco Development park requirements to consolidate several mini-parks in the original development plan into two larger community parks, consistent with the current (2001) General Plan policy which supports

larger parks for more efficiency in maintenance (Ordinance No. 06-1270). This second amendment allowed single-family houses to be built on the former mini-park sites, provided that the number of multifamily units was decreased correspondingly (which resulted in an exchange of approximately 12 multifamily units for single-family units). The third amendment (also initiated by the applicant) occurred in 2012 and facilitated an exchange of single family residential units between Village A and Village O (Ordinance No. 12-1362). The most recent iteration of the PD plan adopted as part of Ordinance No. 12-1362, divides the site into 14 total villages (ten planned for single family development and four planned for multi-family units). Of the four multi-family villages, only Village B (San Marco Villas) has been built to date.

Under the San Marco Development Agreement, Development Plan, and Planned Development District, the project site, known as Village M, is scheduled for up to 420 multi-family residential units on 22.3 acres (equaling a density of up to 18.8 dwelling units per acre).

#### PROJECT DESCRIPTION:

Existing Conditions: Village M currently consists of vacant, undeveloped land and is located on the south side of West Leland Road, immediately west of Tomales Bay Drive. The site has been previously graded into one large substantially flat pad. See Attachment 3 for an overview of surrounding land uses and existing conditions.

Transportation: The project site is located within close proximity to bus service and established bicycle routes. Bus stops for Tri Delta Transit Line #200 are located on the northeast and southeast corners of the West Leland Road and San Marco Boulevard intersection, less than 500 feet from the proposed project site. Tri Delta Transit has stopped service to this bus stop until ridership increases significantly from further San Marco development along West Leland Road. Village M is also located less than one mile from the Pittsburg/Bay Point BART Station, and is adjacent to a Class II bicycle facility which runs along West Leland Road.

Proposed Project: The proposed project consists of 12, three-story apartment buildings, housing a total of 318 one- and two-bedroom units, as well as related site improvements including drive aisles, parking, landscaping, walkways, lighting, and trash enclosures, spread across 13.3 acres of the larger 22.3 acre site. The project proposes two different building types, including seven 24-unit buildings (Type A), a five 30-unit buildings (Type B). Of the 12 apartment buildings on-site, three would be adjacent to Leland Road.

In total, the project proposes 102 one-bedroom, one-bathroom units, and 216 two-bedroom, two-bathroom units, ranging in size from 756-1,083 square feet in size. All units would include a kitchen, dining area, living room, in-unit washer and dryer, private patio, one walk-in closet, and 222 cubic feet of private storage area (separate from interior closet space). Third floor units would also include gas fireplaces. The project includes an approximately 6,539 square foot clubhouse complete with a fitness area,

theater, wi-fi lounge, and great room, along with office space and an onsite leasing area. The center of the development, behind the clubhouse, would include a pool, spa, and BBQ area for residents. The project site also proposes an onsite tot lot with play structure.

The clubhouse and apartment buildings feature a 'Mediterranean' architectural design characterized by Spanish tile hipped roofs, integrated towers and cupolas, plaster exterior finishes, arched windows and walkway entries, grid-patterned glass, decorative ironwork, and tile borders and accents.

The complex's entrance would align with the vehicular entrance to the Toscana residential subdivision to the north, and a condition of approval would require the developer install a new traffic light at the four-way intersection. The main entrance, stemming from Leland Road, would include decorative paving with monument signs located on either side. Two automatic security gates would be located at the end of the entry drive within the interior of the project site, and would be perpendicular to the street frontage, reducing the visual impact of these gates to pedestrians and vehicles travelling West Leland Road.

There are a total of 638 parking spaces distributed throughout the project site, including nine, six-car garages that would also provide residents with additional storage area. A total of 2.97 acres (23 percent) of the project area would be landscaped.

#### GENERAL PLAN/CODE COMPLIANCE:

General Plan: The San Marco Development area, including Village M, is subject to a development agreement that was originally approved by the City Council on July 1, 1993, and was subsequently amended on October 1, 2001, and April 15, 2013. The development agreement locked in the land use regulations at the time it was originally adopted. At the time the development agreement and PD plan were adopted, they were determined to be consistent with the applicable General Plan (1988). Since the proposed development is consistent with the development agreement and PD plan, the project would also be consistent with the applicable General Plan.

The 1988 General Plan includes several policies applicable to this site, including:

1. GP Land Use Chapter, Policy 2.1.R: Rely on the Architectural Review Process, City Planning Commission, and City Council to ensure that both public and private design meet the high standards of the City of Pittsburg and are consistent with the overall General Plan.
2. GP Land Use Chapter, Policy 2.2.D: Promote the creation of a balanced community and the provision of a high-quality environment offering a full range of urban activities by the planned and orderly development of land in the Pittsburg Sphere of Influence.

3. GP Air Quality Chapter, Policy 8.3.A: Maintain good air quality in the Pittsburg Planning area.

Though the proposed project is not subject to the 2001 General Plan, it is consistent with many of the goals and policies contained within the current document. These have been outlined in Attachment 4.

Zoning: The current zoning for the site is PD (Planned Development District, Ordinance No. 12-1362) District, and is regulated by the conditions of approval set forth in the ordinance establishing the PD District. As previously discussed, the proposed project falls within the area designated as Village M in the San Marco Development Plan area, a 22.3-acre site with 420 residential apartment units planned and a maximum allowable density of 18 units per acre. Upon completion of the proposed project, the density for Village M would be approximately 14.3 units per acre, consistent with the maximum allowable density for this village.

In addition, since the current PD plan (Ordinance 12-1362) was adopted to amend the terms of the previous PD plan (Ordinance No. 06-1270), which was adopted to amend the terms of the original PD plan (Ordinance No. 93-1057), several conditions from the original plan are still applicable to the site. An analysis of the current project's consistency with applicable conditions of approval from the original San Marco PD District (Ordinance No. 93-1057), is provided below:

- Condition 4: The site plan and unit mixes for the multi-family and townhouse units on Villages B, C, O, and M shall be determined with approval of the design review application.

The Commission is currently being asked to review the proposed site plan and unit mix for Village M. Staff has reviewed the proposed site plan and unit mix and believes that it complies with the intent of the current PD plan and project description of the SEIR previously prepared for the San Marco Development Plan.

- Condition 7: Subdued-appearing building materials and colors shall be utilized on all residential structures in order to minimize contrast with the surrounding hillside landscape. Specific details shall be reviewed with design review applications. This includes design review of apartments, townhouses, single-family production houses and custom homes.

The proposed project plans utilize a subdued color palate consisting of earth tones befitting of the Mediterranean architecture style and consistent with surrounding uses and structures.

- Condition 10: Apartment and townhouse villages shall have substantial landscape areas in order to reduce visual impacts from Highway 4. Detailed plans shall be reviewed and approved with the design review application.

Though not visible from Highway 4 due to the placement of the Toscana subdivision between the highway and proposed project, substantial landscaping, including a mix of trees, shrubs, and herbaceous plants and proposed. This includes the location of 20 large-canopy shade trees along the northern project border adjacent to West Leland Avenue, which would provide shade for pedestrians on the sidewalk as well as reduce the visual impact of the project from the right-of-way. In total, approximately 23 percent (2.97 acres) of total site development area would be landscaped, exceeding the minimum requirements for new apartment projects in the standard high density residential zoning district of the Pittsburg Municipal Code (PMC) which requires a minimum 20% landscape coverage (PMC 18.20.105).

- Condition 21: A recreational vehicle (RV) storage area shall be located on one of the villages containing apartments or townhouses. The size, location and design shall be approved by the Community Development Director. Management and maintenance of the RV facility shall be the responsibility of the apartment owner or townhouse homeowner's association. Regulations shall give first priority to residents of the project with provisions to allow use by the general public.

An RV storage area is not proposed as part of Village M. Given that there are still two multi-family villages left to be developed, approval of the proposed Village M project would not prevent future implementation of this condition of approval.

- Condition 36: All applicable regulations of the Pittsburg Municipal Code, including zoning regulations where not otherwise specified in this resolution, shall apply.

Those sections of the PMC which applied on or before July 1, 1993, apply to this project unless otherwise specified in the San Marco Development Agreement or Development Plan. As shown in Attachment 5, the proposed project is consistent with the applicable PMC policies.

Development Review Design Guidelines: The Development Review Design Guidelines (DRDG) were adopted by the Planning Commission on November 9, 2010, and are therefore not applicable to this project given the terms of the San Marco Development Agreement. Nevertheless, the guidelines provide a substantive framework specific to multi-family apartment projects for the subjective evaluation necessary as part of a design review application. As shown in Attachment 6, the proposed project is consistent with the applicable DRDG sections.

Required Findings: Design review approval for the project can be granted by the Planning Commission only after the Commission makes a determination that the

proposed project is consistent with PMC section 18.36.220 (B), which is summarized below:

- A. the structure conforms with good taste, good design and in general contributes to the character and image of the city as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality;
- B. the structure will be protected against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable;
- C. the exterior design and appearance of the structure is not of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value;
- D. the structure is in harmony with proposed developments on land in the general area; and
- E. the application conforms with the criteria set forth in any applicable city-adopted design guidelines.

Environmental: The proposed project is within the scope of the SEIR (SCH #91073029) prepared for the San Marco Development Plan Area and certified by the Planning Commission on October 13, 1992. The project is in substantial conformance with the multi-family residential units analyzed in the SEIR for Village M of the San Marco Development Plan area. Furthermore, there are no substantial changes that have occurred with respect to the circumstances under which the SEIR was certified.

Public Notice: Although not required by the PMC, on or prior to April 14, 2017, notice of the April 25, 2017, public meeting to consider design review of the proposed project was posted at City Hall, the Pittsburg Library, near the proposed project site, and on the "Public Notices" section of the City's website; was delivered for posting at the Pittsburg Library; and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the proposed project site, to local service agencies expected to provide services to the site, and to individuals who had previously filed written request for such notice.

ANALYSIS:

The proposed project is consistent with the development that was envisioned for Village M under the San Marco Development Agreement, Development Plan, and PD zoning district, and is therefore considered consistent with the applicable 1988 General Plan. The project does not exceed the maximum allowable density for the PD District (18 units per acre) and is consistent with the conditions of approval set forth in the ordinance establishing the original PD District.

Planning Commission Staff Report  
Esperanza Apartments at San Marco (Village M), AP-13-932 (DR).  
November 8, 2016

Further, staff believes that the proposed project's combination of high-quality architecture, resident amenities, and location adjacent to Ray Giacomelli Park and within a mile of BART will make this a desirable location for prospective residents, and meet the need for higher-end rental housing. With the adoption of several conditions of approval, the project would also be consistent with the applicable adopted Development Review Design Guidelines. Key conditions include:

- Installation of two electric vehicle charging stations, as well as rewiring for an additional 10 stations;
- Provision of a minimum 100 square foot pervious area for residents to maintain a community garden;
- Installation of a bollard-style bicycle repair station;
- Installation of wall-mounted bicycle racks in all garages;
- Pitched, tile roofs, similar to those of the main residential buildings, on all carports visible from the right-of-way or park; and
- Pedestrian-scale lighting along pedestrian paths throughout the development.

With the inclusion of these conditions, staff believes that the Planning Commission can make the required findings to approve the proposed architectural and site development plans for the Esperanza Apartments at San Marco.

ACTION REQUIRED:

In order to approve the project as recommended, the Commission must move to adopt Resolution No. 10060 approving Design Review Application No.13-932, subject to conditions.

ATTACHMENTS:

1. Proposed Resolution
2. Project Plans, date stamped March 10, 2017
3. Existing Conditions and Surrounding Uses
4. Applicable General Plan Goals and Policies
5. Property Development Regulations
6. Development Review Design Guidelines
7. San Marco SEIR Summary of Impacts and Mitigation
8. Public Meeting Notice and Vicinity Map
9. Public Comment Letters (2), dated April 16, 2017

Prepared by: Jordan Davis, AICP, Associate Planner

**701.03**

**PC**

**RESO**

**10147**

**05-26-20**

*K.P.*



# City of Pittsburg

Community Development Department – Planning Division

65 Civic Avenue, Pittsburg, CA 94565 | Tel: (925) 252-4920 | Fax: (925) 252-4814

Date: 5/28/20

Dear Applicant:

SUBJECT: RESOLUTION No. 10147

Enclosed is a copy of the resolution adopted by the Planning Commission. A copy of our Standard Conditions of Development is also included. Please read the enclosed documents and retain them for your files. All conditions of approval shall be incorporated into subsequent plan submittals and construction documents, where appropriate.

The enclosed resolution is valid for a limited period of time as specified in the resolution. Please make a note of the applicable expiration date and plan your construction timeline accordingly to avoid the loss of your entitlements.

If you have any questions about the enclosed resolution, please contact the Planning Division at the number listed above.

Sincerely,

Kristin Pollot, AICP  
Planning Manager

Enclosures: (2) Resolution No. 10147  
Standard Conditions of Development

BEFORE THE PLANNING COMMISSION OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Extending the Design Review ) Resolution No. 10147  
Term of Approval for the Esperanza )  
Apartments at San Marco located )  
immediately west Tomales Bay Drive and )  
known as "Village M" of the San Marco PD )  
(Planned Development, Ordinance No. 12- )  
1362) District, AP-20-1509 (DR).

The Planning Commission DOES RESOLVE as follows:

Section 1. Background

- A. On March 25, 2020, Louis Parsons of Discovery Builders, Inc. filed Planning Application No. 20-1509, requesting a three-year extension of approval for design review of plans to construct a 318-unit apartment complex, consisting of twelve three-story building and one clubhouse, on a 13.3 acre site located immediately west of Tomales Bay Drive and known as 'Village M' of the San Marco PD (Planned Development, Ordinance No. 12-1362) District. Assessor's Parcel No. 091-050-064.
- B. The proposed project is governed by the applicable goals and policies of the Pittsburg General Plan and the Pittsburg Municipal Code (PMC).
- C. On January 19, 1993, the City Council adopted Resolution No. 93-7888, certifying a subsequent environmental impact report (SEIR) for a 2,938-unit project currently known as the San Marco Development. On the same evening that the City Council certified the SEIR, it adopted Ordinance No. 93-1057 zoning the San Marco Development property to a residential PD (Planned Development) District, with a PD Plan consisting of 1,412 single-family residential units and 1,526 multifamily units.
- D. On June 10, 2013, Louis Parsons of Discovery Builders, Inc., filed Design Review Application No. 13-932, requesting design review approval for the Esperanza at San Marco Project, as described above.
- E. On April 25, 2017, the Planning Commission adopted Resolution No. 10060 approving the site design, landscape plan, architectural elevations and building materials for the proposed Esperanza at San Marco apartments (Design Review Application No. 13-932), a 318-unit apartment complex, consisting of twelve three story buildings and one clubhouse. At that meeting, the Commission considered public comments and then approved the project by a vote of 6-0. According to Condition No. 63 of Planning Commission Resolution No. 10060, the applicant was given three years from the date of the public hearing to obtain a building or grading permit for the project, or to submit a written request to the

Planning Division for an extension of approval.

- F. On March 24, 2020, the applicant submitted a request for a three-year extension to extend the design review approval.
- G. Upon written request submitted within the effective period of approval, PMC section 18.36.240 allows the original reviewing body to extend the period to exercise an approved design review according to its terms.
- H. Since the adoption of Planning Commission Resolution No. 10060, there have been no General Plan or Zoning Ordinance amendments related to the affected property.
- I. On May 26, 2020, the Planning Commission considered the request to approve Planning Application No. 20-1509, extending design review approval for three-years for the Esperanza Apartments at San Marco project, subject to conditions.

## Section 2. Findings

- A. Based on the Planning Commission Staff Report entitled, "Esperanza Apartments at San Marco (Village M), Extension of Approval, AP-20-1509," dated May 26, 2020, and based on all the information contained in the Planning Division files on this project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue, and based on evidence presented to the Planning Commission on May 26, 2020, the Planning Commission finds that:
  - 1. All recitals above are true and correct and are incorporated herein by reference.
  - 2. Since the adoption of Planning Commission Resolution No. 10060, there have been no General Plan or Zoning Ordinance amendments related to the affected property.
  - 3. The SEIR for the project was prepared in compliance with Public Resources Code section 21000 et seq., and there have been no substantial changes to the project or with respect to the circumstances under which the project is being undertaken which require revisions to the SEIR.
  - 4. The design of the project has not changed since the approval of the site plan and architectural plans and elevations for this project.
  - 5. The request for extension of the project review approval was filed within the effective period of approval, in compliance with the requirements of PMC section 18.36.240.
  - 6. There is good cause for a three-year extension of the approval at this time, as it will afford the applicant additional time to secure required building and grading permits, as well as promote continued orderly

development of the San Marco Development Plan Area, and more specifically, development of the currently vacant site which has been envisioned for this type of development since the early 1990's..

### Section 3. Decision

Based on the findings set forth above, the Planning Commission hereby extends approval of Design Review Application No. 13-932, subject to all of the conditions of Resolution No. 10060, with the exception of Condition No. 63, which is replaced by the following:

63. This approval will expire on May 26, 2023, unless, prior to that date, the use has been established and a building permit or grading permit has been issued for the site improvements authorized herein. The approval shall be valid for no more than twelve months from the date of building or grading permit issuance, unless work is commenced and diligently pursued prior to the expiration of the building permit.

### Section 4. Effective Date

This resolution shall take effect immediately upon its adoption.

On motion by Commissioner Croskey, seconded by Commissioner Coniglio, the foregoing resolution was passed and adopted the 26<sup>th</sup> day of May 2020, by the Planning Commission of the City of Pittsburg, California, by the following vote:

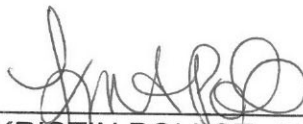
AYES: Coniglio, Croskey, Moreno, Nguyen, Foster

NAYES: None

ABSTAIN: None

ABSENT: Bhasin, Robinson

I hereby certify that the above Resolution No. 10147 was adopted by the Planning Commission of the City of Pittsburg on May 26, 2020.



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KRISTIN POLLOT, AICP, SECRETARY  
PITTSBURG PLANNING COMMISSION

**CITY OF PITTSBURG  
PLANNING COMMISSION  
STAFF REPORT  
May 26, 2020**

**ITEM: Esperanza Apartments at San Marco (Village M), Extension of Approval, AP-20-1509.**

ORIGINATED BY: Louis Parsons, Discovery Builders, Inc., 4061 Port Chicago Highway, Suite H, Concord, CA 94520

SUBJECT: This is a request for a three-year extension of approval for design review of plans to construct a 318-unit apartment complex, consisting of twelve three-story buildings and one clubhouse, on a 13.3 acre site located immediately west of Tomales Bay Drive and known as 'Village M' of the San Marco PD (Planned Development, Ordinance No.12-1362) District. Assessor's Parcel No. 091-050-064.

RECOMMENDATION:

Staff recommends that the Planning Commission adopt Resolution No. 10147, approving Planning Application No. 20-1509, extending design review approval for three-years for the Esperanza Apartments at San Marco project, subject to conditions.

BACKGROUND:

On April 25, 2017, the Planning Commission adopted Resolution No. 10060 approving the site design, landscape plan, architectural elevations and building materials for the proposed Esperanza at San Marco apartments, a 318-unit apartment complex, consisting of twelve three story buildings and one clubhouse. At that meeting, the Commission considered public comments and then approved the project by a vote of 6-0. According to Condition No. 63 of Planning Commission Resolution No. 10060, the applicant was given three years from the date of the public hearing to obtain a building or grading permit for the project, or to submit a written request to the Planning Division for an extension of approval.

On March 24, 2020, the applicant submitted a request for a three-year extension to extend the design review approval. This is the first request for an extension of design review approval for the Esperanza Apartments at San Marco. The extension request was submitted prior to expiration of the resolution, thereby allowing the Planning Commission to consider the request.

PROJECT DESCRIPTION:

The applicant has requested approval of the three-year extension to extend the design review approval through May 26, 2023, in order to allow additional time to accommodate building permit review and issuance of the necessary building permits.

## Planning Commission Staff Report

The applicant has stated that they plan to build San Marco Villas Apartments, Phase 3, before this project, so the time extension would be necessary in order to accommodate the change in construction scheduling.

Please refer to Planning Commission Resolution No. 10060 and the original staff report entitled, “No. 4 – Esperanza Apartments at San Marco (Village M), AP-13-932 (DR)” dated April 25, 2017, for a detailed description of the project, conditions of approval and the findings made by the Planning Commission to approve the original project as presented (Attachment 2).

No changes to the project are proposed at this time, and there have been no changes in regulations applicable to this development since its approval in 2017.

### GENERAL PLAN/CODE COMPLIANCE:

General Plan/Zoning: The General Plan land use designation and zoning classification for the site have not changed since the initial project approval on April 2017. Please refer to Attachment 2 for more details on the project’s compliance with the General Plan and Zoning Ordinance.

Extension of Approval: When a written request for extension of approval is submitted within the effective period of approval, Pittsburg Municipal Code (PMC) section 18.36.240 authorizes the original reviewing body to extend the period of the approval for Design Review.

Environmental: The original project was within the scope of the previously approved Supplemental Environmental Impact Report (“SEIR,” State Clearinghouse #91073029) prepared for the San Marco Development Plan Area, and certified by the Planning Commission on October 13, 1992. The project was in substantial conformance with the multi-family residential units analyzed in the SEIR for Village M of the San Marco Development Plan area. In accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15162, there are no substantial changes that have occurred with respect to the circumstances under which the SEIR was certified, and no new significant environmental effects, nor a substantial increase in the severity of previously identified significant effects which could require revisions to the SEIR.

Public Notice: Although not required, on or prior to May 15, 2020, a “Notice of Public Meeting” for the May 26, 2020, public meeting on this item was posted at City Hall and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the proposed project site, to local service agencies whose services might be affected by this project, and to individuals who had previously filed written request for such notice. The notice was also posted on [www.nextdoor.com](http://www.nextdoor.com) (Nextdoor) and was sent directly to all subscribed residents in the surrounding Nextdoor neighborhoods including: 1) Toscana; 2) Vista Del Mar; 3) Oak Hills South; 4) San Marco; and 5) San Marco Villas.

## Planning Commission Staff Report

### ANALYSIS:

Staff believes that there is good cause for a three-year extension of approval at this time as the extension would promote continued orderly development of the San Marco Development Plan Area, and more specifically, development of the currently vacant site which has been envisioned for this type of development since the early 1990's.

The proposed project is consistent with the development that was envisioned for Village M under the San Marco Development Agreement, Development Plan, and PD zoning district, and is therefore considered consistent with the applicable 1988 General Plan. The project does not exceed the maximum allowable density for the PD District (18 units per acre) and is consistent with the conditions of approval set forth in the ordinance establishing the original PD District. With the inclusion of all original conditions of approval from 2017, the project would also be consistent with the current adopted Development Review Design Guidelines.

Further, staff believes that the proposed project's combination of high-quality architecture, resident amenities, and location being adjacent to the recently constructed Ray Giacomelli Park and less than a mile away from the Pittsburg/Bay Point BART Station, make this a desirable location for prospective residents, and help meet the need for multifamily housing in the area.

### ACTION REQUIRED:

Move to adopt Resolution 10147, approving a three-year extension of the term of approval of Design Review Application No. 20-1509.

### ATTACHMENTS:

1. Proposed Resolution No. 10147
2. Approved Project Plans, date stamped March 10, 2017
3. Adopted Resolution No. 10060 and Staff Report, dated April 25, 2017
4. Letter of Request for Extension
5. Public Meeting Notice and Vicinity Map

Prepared by: Trishia Caguiat, Associate Planner



**701.03**

**PC**

**RESO**

**10232**

**07-11-23**

BEFORE THE PLANNING COMMISSION OF THE CITY OF PITTSBURG

In the Matter of:

Extending the Design Review Term of ) Resolution No. 10232  
Approval for the Esperanza Apartments at )  
San Marco located at 2009 W Leland Road )  
immediately west of Tomales Bay Drive and )  
known as "Village M" of the San Marco PD )  
(Planned Development, Ordinance No. 12- )  
1362) District, AP-23-0074 (EXT). )

The Planning Commission DOES RESOLVE as follows:

Section 1. Background

- A. On January 19, 1993, the City Council adopted Resolution No. 93-7888, certifying a subsequent environmental impact report (SEIR) for a 2,938-unit project currently known as the San Marco Development. On the same evening that the City Council certified the SEIR, it adopted Ordinance No. 93-1057 zoning the San Marco Development property to a residential PD (Planned Development) District, with a PD Plan consisting of 1,412 single-family residential units and 1,526 multifamily units.
- B. On April 25, 2017, the Planning Commission adopted Resolution No. 10060 approving the site design, landscape plan, architectural elevations and building materials for the proposed Esperanza Apartments at San Marco, a 318-unit apartment complex, consisting of twelve three story buildings and one clubhouse on a 13.3-acre site located immediately west of Tomales Bay Drive and known as 'Village M' of the San Marco PD (Planned Development, Ordinance No. 12-1362) District.
- C. Condition No. 63 of Planning Commission Resolution No. 10060, allowed the applicant three years from the date of approval to obtain a building or grading permit for the project, or to submit a written request to the Planning Division for an extension of approval.
- D. On March 24, 2020, Louis Parsons of Discovery Builders, Inc., filed Planning Application No. 20-1509, requesting a three-year extension of the term of Design Review approval for the Esperanza Apartments at San Marco project approved by the Planning Commission under Resolution No. 10060 on April 25, 2017.
- E. On May 26, 2020, the Planning Commission approved the request for a three-year extension of design review approval for the project in Resolution No. 10147. Condition No. 63 of Planning Commission Resolution No. 10147 extended the project expiration date to May 26, 2023.
- F. On May 25, 2023, Louis Parsons of Discovery Builders, Inc., filed Planning

Application No. 23-0074, requesting a second, three-year extension of the term of Design Review approval for the Esperanza Apartments at San Marco project approved by the Planning Commission under Resolution No. 10060 on April 25, 2017. The request was submitted prior to expiration of the resolution, thereby allowing the Planning Commission to consider the request.

- G. The proposed project is governed by the applicable goals and policies of the Pittsburg General Plan and the Pittsburg Municipal Code (PMC).
- H. Upon written request submitted within the effective period of approval, PMC section 18.36.240 allows the original reviewing body to extend the period to exercise an approved design review according to its terms.
- I. The General Plan land use designation and zoning classification for the site have not changed since the initial project approval on April 25, 2017.
- J. On July 11, 2023, the Planning Commission considered the request to approve Planning Application No. 23-0074, extending design review approval for three-years for the Esperanza Apartments at San Marco project, subject to conditions.

## Section 2. Findings

- A. Based on the Planning Commission Staff Report entitled, “Esperanza Apartments at San Marco (Village M), Extension of Design Review Approval, AP-23-0074,” dated July 11, 2023, and based on all the information contained in the Planning Division files on this project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue, and based on evidence presented to the Planning Commission on July 11, 2023, the Planning Commission finds that:
  - 1. All recitals above are true and correct and are incorporated herein by reference.
  - 2. Since the adoption of Planning Commission Resolution No.10060, on April 25, 2017, there have been no General Plan or Zoning Ordinance amendments related to the affected property.
  - 3. The SEIR for the project was prepared in compliance with Public Resources Code section 21000 et seq., and there have been no substantial changes to the project or with respect to the circumstances under which the project is being undertaken which require revisions to the SEIR.
  - 4. The design of the project has not changed since the approval of the site plan and architectural plans and elevations for this project.
  - 5. The request for extension of the project review approval was filed within the effective period of approval, in compliance with the requirements of PMC section 18.36.240.

6. There is good cause for a second, three-year extension of the approval at this time, as it will afford the applicant additional time to secure required building and grading permits, as well as promote continued orderly development of the San Marco Development Plan Area, and more specifically, development of the currently vacant site which has been envisioned for this type of development since the early 1990's.

### Section 3. Decision

Based on the findings set forth above, the Planning Commission hereby extends the term of Design Review approval for Planning Application No. 13-932 (DR), subject to all of the conditions of Resolution No. 10060, with the exception of Condition No. 63, which is replaced by the following:

63. The design review approval will expire on May 26, 2026, unless, prior to that date, the use has been established and a building permit or grading permit has been issued for the site improvements authorized herein. The approval shall be valid for no more than twelve months from the date of building or grading permit issuance, unless work is commenced and diligently pursued prior to the expiration of the building permit.

### Section 4. Effective Date

This resolution shall take effect immediately upon its adoption.

On motion by Commissioner Robinson, seconded by Commissioner Popova, the foregoing resolution was passed and adopted the 11<sup>th</sup> day of July 2023, by the Planning Commission of the City of Pittsburg, California, by the following vote:

AYES: Robinson, Foster, Smith, Kobata, Popova

NAYES: None

ABSTAIN: None

ABSENT: None

I hereby certify that the above Resolution No. 10232 was adopted by the Planning Commission of the City of Pittsburg on July 11, 2023.



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JOHN FUNDERBURG, SECRETARY  
PITTSBURG PLANNING COMMISSION

## STANDARD CONDITIONS OF DEVELOPMENT

(Planning Commission Resolution No. 8931)

All projects approved by the Planning Commission must meet the following standard conditions unless specifically exempted by the Commission or Council.

### A. Project Site.

1. The applicant shall comply with all regulations and code requirements of the Building Division, Engineering Division, Contra Costa Fire Protection District, the Police Department and any other agencies requiring review of the project. If required, these agencies shall be supplied copies of the final building and site plans.
2. Developer shall provide written notification to adjacent property owners for any drainage work required to collect or convey storm water runoff, which may or will affect their properties.
3. During construction water trucks or sprinkler systems are to be used in sufficient quantities to prevent dust from leaving the site during any earthmoving and/or construction activities. Nonpotable water shall be used from a source approved by the City Engineer. (Title 15 of PMC)
4. Continuous 6" high Portland Concrete Cement curbing shall be provided between all driveways and landscaped areas as indicated in the City of Pittsburg Standard Details. In addition to above, curbing between length of parking space and landscaped area shall include a 12" wide "Courtesy Curb."
5. CC&R's (Covenants, Conditions and Restrictions) for the project shall contain appropriate provisions for joint maintenance of any infrastructure, roadways, utilities, landscaping and irrigation as determined necessary by the City Engineer.
6. Developer shall submit a study addressing on and off-site storm water and sewer system capabilities. If the study indicates that the present system is inadequate, the developer must provide plans and install any additional storm water and sanitary sewer facilities including off-site improvements to correct storm water runoff and sanitary sewer demands anticipated for upstream buildout in accordance with the Pittsburg General Plan.
7. Environmental and engineering studies, as directed by the Planning and Building Director, must be complete and on file prior to commencement to plan checking. Developer shall install off-street improvements determined necessary by the City Engineer to provide safe traffic conditions.
8. Developer shall underground existing and required on and off-site utilities as specified in Chapter 17 of the Municipal Code or as deemed necessary by the City Engineer.
9. All site development shall comply with title 12 (Streets, Sidewalks and Utilities), Title 13 (Water and Sewers) and Chapter 15.88 (Grading, Erosion and Sediment Control) of the Pittsburg Municipal Code as determined by the City Engineer. Issuance of a site development permit will be required whereby specific engineering requirements will be made as conditions of approval of that permit.
10. The CC&R's shall restrict the storage of recreational vehicles on this site or parcels unless they are the principle source of transportation for the

owner and prohibit parking on the public street for long than 72 hours.

11. All retaining wall adjacent to public right-of-ways shall be provided with decorative treatment, subject to approval by the Planning Division.

12. The design of any masonry soundwall shall be approved by the Planning and Building Department. It shall match or harmonize with existing soundwalls of neighboring projects along that street.

B. Architecture.

1. All mechanical, irrigation, ground and/or roof mounted equipment shall be architecturally screened from view from all public right-of-ways prior to issuance of certificate of occupancy.

2. All trash enclosures shall be constructed of masonry material with self-enclosing doors and have a second access. The enclosure shall have materials and colors consistent with the primary building.

3. All vents, gutters, downspouts, flashing electrical conduits, etc., shall be painted or finished to match the color of the adjacent surface unless otherwise directed by the Planning Commission.

4. Soffits and other architectural elements visible from view but not detailed on the plans shall be finished in a material in harmony with the exterior of the building.

5. Finish quality of exterior design elements including, but not limited to, building façades and landscaping shall be subject to approval of the Planning Division prior to issuance of Certificate of Occupancy.

C. Landscaping.

1. Specific landscaping for screening shall have an appearance of mature growth subject to a field check and approval by the Planning Division prior to Certificate of Occupancy.

2. The area under the drip line of all existing trees, which are to be saved, shall be fenced during construction. Grading shall be restricted under them to prevent soil compaction around the trees and to protect them from damage.

3. An existing tree inventory shall be created and included on the site plan for all new projects prior to approval of grading plan.

4. All slope banks in excess of five (5) feet in vertical height and 2:1 or greater slope shall be landscaped and irrigated for erosion control and to soften their appearance as follows: one 15-gallon or larger size tree per each 150 sq. ft. of slope area, one 1-gallon or larger size shrub per each 100 sq. ft. of slope area, and appropriate ground cover 12-24 inches on-center. In addition, slope banks in excess of eight (8) feet in vertical height and 2:1 or greater slope also include one 5-gallon or larger size tree per each 250 sq. ft. of slope area. Trees and shrubs shall be planted in staggered clusters to soften and vary slope plane. Slope planting required by this condition shall include a permanent irrigation system to be installed by the developer prior to occupancy.

5. All planting shall be maintained in good growing condition. Such maintenance shall include, where appropriate, pruning, mowing, weeding, cleaning of debris and trash, fertilizing and regular watering. Whenever necessary, planting shall be replaced with other plant materials to insure continued compliance with applicable landscaping requirements. Required

irrigation systems shall be fully maintained in sound operating condition with heads periodically cleaned and replaced when missing to insure continued regular watering of landscape areas, and health and vitality of landscape materials.

D. General Requirements

1. Final inspection for occupancy permits will not be granted until all construction and landscaping is complete in accordance with approved plans.
2. The applicant shall defend, indemnify and hold harmless the City of Pittsburg, its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul this approval, or any aspect of the City's consideration of applicant's project. The applicant recognizes and agrees that applicant's voluntary commitment to meet the obligations described in this condition is an integral factor in the City's approval of this project. The intent of this condition is to require the applicant to bear the cost of any and all litigation instituted to overturn or in any way modify the City's approval of this project. Such costs include without limitation, any award of attorney's fees and costs to a prevailing plaintiff or petitioner. In the event the city becomes aware of any such claim, action, or proceeding, the City shall promptly notify the applicant and shall cooperate fully in the defense. If the City fails to promptly notify the applicant, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City. Nothing contained in this condition prohibits the City from participating in the defense of any claim, action, or proceeding, it both the following occur:
  - (a) the City bears its own attorneys' fees

and costs; and (b) the City defends the action in good faith. The applicant shall not be required to pay or perform any settlement unless the applicant approves the settlement.

3. It is required by State Law (Business and Professional Code Section No. 5537 & 5538 and Section 302(b) of the Uniform Building Code) that all commercial buildings, new or existing must have a licensed professional designer (Architect, Civil or Structural Engineer) to design all changes of use or occupancy as well as new construction.
4. The applicant shall submit a complete area water pressure availability study for all phases of the Project prior to issuance of any development permits. If the study indicates that the present system is inadequate, the Applicant must provide plans, which will demonstrate any remedial action necessary to abate the deficiency and shall take all necessary actions at the applicant's expense.
5. This use permit may be recalled to the Planning Commission for review at any time due to complaints regarding lack of compliance with conditions of approval, traffic congestion, noise generation, or other adverse operating characteristics. At such time, the Commission may revoke the use permit or add/modify conditions approval.
6. It is the responsibility of the applicant or developer to check with each agency for requirements that may pertain to their project.
7. All signs shall be submitted to the Planning Division for design review per Title 19 of the Pittsburg Municipal Code.
8. All landscape areas shall be maintained in a healthy, thriving and weed free condition.

9. The site shall be maintained in a neat and clean manner free of trash and debris.

10. All outdoor mechanical equipment, satellite dishes, fire main and all rooftop equipment shall be fully visually screened upon installation subject to the approval of the Planning Division. Screening devices shall be shown on construction and/or landscape plans.

11. All exterior light fixtures shall be shown on plans subject to staff review and approval. All lights attached to buildings shall provide a soft “wash” of light against the wall. All building and parking or yard lights shall conform to City Parking Standards 18.78.050 (F) and Performance Standards 18.82.030 (B) and shall compliment the site and building architecture.

12. Prior to occupancy, the developer shall supply the City with an ACAD computer disk file showing plans that reflect the project as it was build (As-Builts) at the discretion of the Planning and Building Director.

E. Standard Conditions of Approval Requiring Minimum Construction Site Management Practices

**1. (Projects involving land disturbances of less than five (5) acres)** – During construction activities, the project sponsor shall reduce or prevent to the maximum extent practicable the direct or indirect discharge of any pollutant into the storm drain system utilizing best management practices contained in the California Storm Water Best Management Practices Handbook for Construction Activities. Construction activities include, but are not limited to: watering operations; roadwork and paving operations; concrete and painting; structure construction and painting; construction material storage and

handling; construction waste/debris storage and disposal; and, construction equipment/vehicle cleaning, maintenance and fueling operations. The project sponsor is also responsible for training all contractors and subcontractors on the best management practices which are identified in the California Storm Water Best Management Practices Handbook for Construction Activities which will be available at the pre-construct meeting of the project.

or

**2. (Projects involving land disturbances of five (5) acres or more)** – Prior to commencement of any site work that will result in a land disturbance of five acres or more, the project sponsor shall submit to the City a copy of the Notice of Intent (NOI) sent the State Water Resources Control Board and the Stormwater Pollution Prevention Plan (SWPPP) prepared for the project, as required by the State’s General Construction Activity Permit.

3. All storm drains, which serve the site, shall be protected from spills and soil runoff (from unpaved parking areas). The applicant may use “Any Source Control” BMP (Best Management Practice) as listed in the California Storm Water Best Management Practice Handbook for storm water run-ff for commercial and industrial sites. Storm drains will be inspected periodically. Questions may be referred to City NPDES Coordinator, at 252-4920.

**CITY OF PITTSBURG  
PLANNING COMMISSION  
STAFF REPORT  
July 11, 2023**

**ITEM: Esperanza Apartments at San Marco (Village M), Extension of Design Review Approval, AP-23-0074 (EXT).**

ORIGINATED BY: Louis Parsons, Discovery Builders, Inc., 4061 Port Chicago Highway, Suite H, Concord, CA 94520

SUBJECT: This is a request for a second, three-year extension of approval for design review of plans to construct a 318-unit apartment complex, consisting of twelve three-story buildings and one clubhouse, on a 13.3-acre site located at 2009 W Leland Road and known as 'Village M' of the San Marco PD (Planned Development, Ordinance No.12-1362) District. Assessor's Parcel Nos. 091-050-068 and portion of 091-050-069.

RECOMMENDATION: Staff recommends that the Planning Commission adopt a Resolution (Attachment 1) approving Planning Application No. 23-0074, extending design review approval for three-years for the Esperanza Apartments at San Marco project, subject to conditions.

BACKGROUND: On April 25, 2017, the Planning Commission adopted Resolution No. 10060 approving the site design, landscape plan, architectural elevations and building materials for the proposed Esperanza Apartments at San Marco, a 318-unit apartment complex, consisting of twelve three story buildings and one clubhouse. At that meeting, the Commission considered public comments and then approved the project by a vote of 6-0. According to Condition No. 63 of Planning Commission Resolution No. 10060, the applicant was given three years from the date of the public hearing to obtain a building or grading permit for the project, or to submit a written request to the Planning Division for an extension of approval.

See Attachment 2 for Resolution No. 10060 adopted on April 25, 2017.

On March 24, 2020, the applicant submitted the first request for a three-year extension of design review approval. This first request for an extension of design review approval for the Esperanza Apartments at San Marco was approved by the Planning Commission on May 26, 2020, in Resolution No. 10147. Condition No. 63 of Planning Commission Resolution No. 10147 extended the project expiration date to May 26, 2023. As such, the applicant had until May 26, 2023, to obtain a building or grading permit for the project, or to submit a written request to the Planning Division for an extension of approval.

See Attachment 3 for Resolution No. 10147 adopted on May 26, 2020.

On May 25, 2023, the applicant submitted a request to the Planning Division for a second, three-year extension of the Design Review term of approval. Pursuant to Pittsburg Municipal Code (PMC) section 18.36.240, when a written request for extension of approval is submitted within the effective period of approval, it authorizes the reviewing body to extend the period of the approval for Design Review. The three-year extension request was submitted prior to expiration of the resolution, thereby allowing the Planning Commission to consider the request.

PROJECT DESCRIPTION:

The applicant has requested approval of a second, three-year extension to extend the term of design review approval through May 26, 2026, in order to allow additional time to accommodate building permit review and issuance of the necessary building permits. The applicant has stated that they plan to build San Marco Villas Apartments, Phase 3, before this project, so the time extension would be necessary to accommodate the change in construction scheduling.

No additional changes to the project are proposed at this time, and there have been no changes in regulations applicable to this development since its original approval in 2017.

GENERAL PLAN/CODE COMPLIANCE:

General Plan/Zoning: The General Plan land use designation and zoning classification for the site have not changed since the initial project approval on April 25, 2017.

Environmental: The original project was within the scope of the previously approved Supplemental Environmental Impact Report ("SEIR," State Clearinghouse #91073029) prepared for the San Marco Development Plan Area, and certified by the Planning Commission on October 13, 1992. The project was in substantial conformance with the multi-family residential units analyzed in the SEIR for Village M of the San Marco Development Plan area. In accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15162, there are no substantial changes that have occurred with respect to the circumstances under which the SEIR was certified, and no new significant environmental effects, nor a substantial increase in the severity of previously identified significant effects which could require revisions to the SEIR.

Public Notice: Although not required, on or prior to June 30, 2023, a "Notice of Public Meeting" for the July 11, 2023, public meeting on this item was posted at City Hall and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the proposed project site, to local service agencies whose services might be affected by this project, and to individuals who had previously filed written request for such notice. The notice was also posted on [www.nextdoor.com](http://www.nextdoor.com) (Nextdoor) and was sent directly to all subscribed residents in the

Planning Commission Staff Report  
Esperanza Apartments at San Marco (Village M), Extension of Design Review Approval,  
AP-23-0074 EXT  
July 11, 2023

surrounding Nextdoor neighborhoods including: 1) Toscana; 2) Vista Del Mar; 3) Landing Street; 4) San Marco; and 5) San Marco Villas.

See Attachment 5 for the Public Hearing Notice.

ANALYSIS:

Staff believes that there is good cause for a second, three-year extension of approval as the extension would promote continued orderly development of the San Marco Development Plan Area, and more specifically, development of the currently vacant site which has been envisioned for this type of development since the early 1990's.

The proposed project is consistent with the development that was envisioned for Village M under the San Marco Development Agreement, Development Plan, and PD zoning district, and is therefore considered consistent with the applicable 1988 General Plan. The project does not exceed the maximum allowable density for the PD District (18 units per acre) and is consistent with the conditions of approval set forth in the ordinance establishing the original PD District. With the inclusion of all original conditions of approval from 2017, the project would also be consistent with the current adopted Development Review Design Guidelines.

Further, staff believes that the proposed project's combination of high-quality architecture, resident amenities, and location being adjacent to the recently constructed Ray Giacomelli Park and less than a mile away from the Pittsburg/Bay Point BART Station, make this a desirable location for prospective residents, and help meet the need for multifamily housing in the area.

ACTION REQUIRED:

Move to adopt a Resolution approving a three-year extension of the Design Review term of approval for the Esperanza Apartments at San Marco, Planning Application No. 23-0074 EXT.

ATTACHMENTS:

1. Proposed Resolution
2. Approved Project Plans, date stamped March 10, 2017
3. Adopted Resolution No. 10060 and Staff Report, dated April 25, 2017
4. Adopted Resolution No. 10147 and Staff Report, dated May 26, 2020
5. Public Meeting Notice and Vicinity Map

Prepared by: Alison Hodgkin, Associate Planner



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## NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the **PLANNING COMMISSION** of the City of Pittsburg will conduct a public hearing on:

**DATE:** June 9, 2026  
**TIME:** 7:00 p.m.  
**PLACE:** City Council Chamber at City Hall  
65 Civic Avenue, Pittsburg, California

Concerning the following matter:

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**Esperanza Apartments at San Marco (Village M), Extension of Approval, AP-26-0060 (EXT)**

This is a public hearing on a request for a three-year extension of approval for design review of plans to construct a 318-unit apartment complex, consisting of twelve three story buildings and one clubhouse, on a 13.3-acre site known as 'Village M' of the San Marco PD (Planned Development, Ordinance No. 24-1519) District. Assessor's Parcel Nos. 091-050-068 and portion of 091-050-069.

**Environmental Determination**

The original project was within the scope of the previously approved Supplemental Environmental Impact Report ("SEIR," State Clearinghouse #1991073029) prepared for the San Marco Subdivision No. 7362 certified by the Planning Commission on October 13, 1992. The project was in substantial conformance with the multi-family residential units analyzed in the SEIR for "Village M." Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15162, there are no substantial changes that have occurred with respect to the circumstances under which the SEIR was certified, and no new significant environmental effects, nor a substantial increase in the severity of previously identified significant effects which could require revisions to the SEIR for the San Marco Subdivision.

**PROJECT PLANNER:** Alison Spells, (925) 252-6987 or [aspells@pittsburgca.gov](mailto:aspells@pittsburgca.gov)

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**Why am I receiving this notice?**

You are receiving this notice because you have either previously requested notifications from the Planning Division, or a project has been proposed in your neighborhood and all property owners within a minimum 300-foot radius of the project site are required to be notified under the Pittsburg Municipal Code.

**Where can I get more information about this project?**

The complete file for this project is available for public inspection; please contact the project planner listed above to make necessary arrangements.

**What can I do if I have comments on the project?**

Comments or objections to the project can be made by writing or through e-mailed testimony prior to the meeting or provided orally during the meeting. Written comments citing the project name may be emailed to the project planner listed above or may be mailed or delivered to Pittsburg Planning Division, 65 Civic Avenue, Pittsburg, CA 94565.

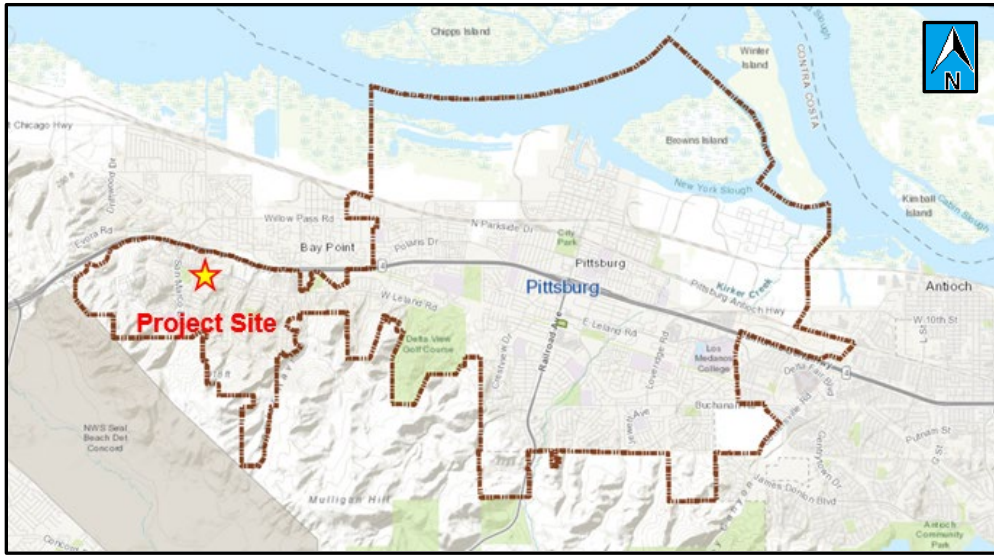
Pursuant to Section 65009 of the California Government Code, if you challenge this matter in court, you may be limited to those issues you or someone else raised at the public hearing described in this notice, or in written correspondence on the matter delivered to this agency at, or prior to the public hearing. Any written correspondence delivered to the Planning Division before the hearing body's action on the matter will become a part of the administrative record.

*Para información en español:*  
**(925) 252-4920**

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JOHN FUNDERBURG, SECRETARY  
PITTSBURG PLANNING COMMISSION

**Project Title:** Esperanza Apartments at San Marco (Village M), Extension of Approval, AP-26-0060  
**Location:** 2009 W Leland Road, APNs: 091-050-068 and portion of 091-050-069



City of Pittsburg

Community and Economic Development Department - Planning Division

65 Civic Avenue  
Pittsburg, CA 94565



**CITY OF PITTSBURG  
PLANNING COMMISSION  
STAFF REPORT  
June 9, 2026**

**ITEM: 7 Brew Coffee – Freestanding Monument Sign, AP-26-0056 (SR)**

ORIGINATED BY: Russ Orsi of Forza Development; [mgantzert@core-states.com](mailto:mgantzert@core-states.com)

SUBJECT: This is an application submitted by Russ Orsi of Forza Development on behalf of 7 Brew Coffee, requesting approval of Sign Review application to construct a 5-foot-tall freestanding monument sign, located at 2155 Railroad Avenue. (The site is located within the Transit Village Subarea of the Railroad Avenue Specific Plan (RASP and has a CC-Community Commercial zoning land use classification. Assessor’s Parcel No.: 088-183-011.

RECOMMENDATION:

Staff recommends that the Commission adopt a Resolution (Attachment 1) approving Sign Review Application No. 26-0056, subject to conditions.

BACKGROUND:

On December 12, 2025, Russ Orsi of Forza Development on behalf of 7 Brew Coffee filed an Administrative Design Review application for minor façade and fenestration improvements to the existing 3,171 square-foot KFC restaurant facility to allow for a 2,300 square-foot drive-through only 7-Brew Coffee facility. Site improvements include a single extended drive-through lane, addition of landscape area, and removal of parking spaces. On April 30, 2026, Russ Orsi of Forza Development on behalf of 7 Brew Coffee, filed a Sign Review application to construct a 5-foot-tall freestanding monument sign.

PROJECT DESCRIPTION:

Existing Conditions:

The project site is a predominantly flat, 0.69-acre parcel located along the eastern side of Railroad Avenue, between State Route 4 and East Leland Road. The site contains an existing 3,171 square-foot KFC restaurant facility with a drive-through facility and surface parking.

Surrounding Land Uses:

North:	Pittsburg Tires and Wheels (Tire Shop)
West:	76 Gas Station/Shopping Center
South:	California Burrito (Mexican Restaurant)
East:	Office Park with various tenants

Proposed Project:

The current request by the project applicant is for Sign Review approval to construct an approximately 5-foot- tall by 10-foot wide, two-sided, illuminated freestanding monument sign at the entrance to the property. (Pursuant to Pittsburg Municipal Code (PMC) section 19.12.020, permanent freestanding signs are permitted, subject to review and approval by the Planning Commission.

The proposed freestanding sign would be located approximately 7 feet east of the front property line in a landscaped area of the site adjacent to the pedestrian walkway and parking/driveway entrance off Railroad Avenue.

The proposed monument sign consists of a cabinet constructed of plastic panels over a base finished with a spray textured foam material, acrylic lettering and logo on both faces with aluminum backing and LED lighting for internal illumination.

See Attachment 2 for the Sign Package.

GENERAL PLAN/CODE COMPLIANCE:

2040 General Plan:

The project site is located within the 'Railroad Avenue Subarea' of the General Plan and has a land use designation of 'Mixed Use (Railroad Avenue SPA)'. This land use designation is intended to provide sites for mixed uses that include high density and intensity office, residential, and community services and retail that support the City Center BART station and promote economic development.

Zoning:

The property is located within the CC (Community Commercial) District of the Railroad Avenue Specific Plan. PMC Section 19.16.020 regulates the sign area and sign height for freestanding signs for retail and services.

PMC section 19.16.020(D)(1a.) states: "*Parcel Containing Fewer Than Four Businesses or Uses. The sign area may not exceed 50 square feet or 50 percent of the sign area permitted for building signs on the principal street frontage of each business identified on the sign, whichever is less, except that the sign area may be at least 20 square feet*"

PMC Section 19.16.020(D)(2) states: "*Parcel Containing Fewer Than Four Businesses or Uses. The height of a freestanding sign may not exceed one foot for each 10 feet of lot frontage or 15 feet, whichever is less. No portion of the sign may be higher than the closest distance between the sign and a building. Notwithstanding the preceding restrictions, a freestanding sign may be at least five feet in height.*"

PMC section 19.16.020(D)(3) allows one freestanding sign per street frontage, subject to PMC 19.12.020.

The proposed freestanding sign, at 50 square feet and 5 feet tall, complies with both the maximum area and height standards set forth in PMC Section 19.16.020(D)(1-3).

Required Sign Review Findings:

Pursuant to PMC 19.12.020(A), the Planning Commission may approve a freestanding sign upon making one or more of the following findings:

1. the business is set back from the street or obscured from view by adjacent structures or vegetation in such a manner that adequate identification cannot be obtained from a sign placed on the building;
2. the sign is necessary to provide the business with a comparable degree of identity from the street as that available to businesses or uses on neighboring premises;
3. the size or width of the property upon which the business or use is located is such that a sign placed on the building would not adequately identify the premises occupied by that use;
4. the architectural style, material, or elements of construction are such that signs attached to the building would be in conflict with the provisions of Chapter 18.36 (Design Review) of the Zoning Ordinance; or
5. the sign is part of a master identification sign for a shopping center of four more individual businesses.

Freestanding signs must also meet each of the following sign regulations as listed within PMC section 19.12.020 (B -F):

- B. No portion of a freestanding sign may be placed in or project over or into a public right-of-way.
- C. A freestanding sign must be placed on the premises and adjacent to a public right-of-way to which the business or use has direct access.
- D. The area around the base of a freestanding sign must be attractively landscaped unless its location restricts or prohibits such landscaping.
- E. The sign structure supporting a freestanding sign must be attractively designed and adequately engineered to support the sign without the use of unsightly braces, poles or wires.
- F. A freestanding sign may not exceed the height specified for the particular land use. The height is measured from the finished grade to the highest elevation of the sign structure.

Section 2 of the Resolution (Attachment 1) demonstrates how the proposed freestanding monument sign: (1) is consistent with the regulations in PMC Section 19.12.020 (B) – (F) and (2) meets at least one of the five findings in PMC Section 19.12.020(A).

Environmental:

The proposed project is categorically exempt from the provisions of the CEQA Guidelines pursuant to the Provisions of Title 14 of the California Administrative Code, Section 15303(e) (New Construction or Conversion of Small Structures) because it involves the construction of a new, small accessory structure (freestanding monument sign). Based on the project's scope, characteristics, and location, there is no substantial likelihood that the project will have a significant impact on the environment.

Public Notice:

On or prior to May 29, 2026, notice of the June 9, 2026, public hearing to consider this application was posted at City Hall, and on the 'Public Notices' section of the city's website; was delivered to the Pittsburg Library; and was mailed via first class or electronic mail to the applicant/property owner, to owners of property located within 300 feet of the proposed project site, to local service agencies expected to provide services to the use, and to individuals who had previously filed written request for such notice, in accordance with PMC section 18.14.010 and Government Code section 65091. In addition, a copy of the notice was posted on [www.nextdoor.com](http://www.nextdoor.com) ("Nextdoor") and was sent directly to all subscribed residents in neighborhoods surrounding the project site.

See Attachment 3 for the hearing notice.

ANALYSIS:

Staff believes that the Planning Commission can make the required findings to grant Sign Review approval for the proposed project.

The proposed freestanding monument sign is situated in a location that would adequately identify the premises occupied by the use, is attractively designed and would enhance the appearance along the project frontage area.

ACTION REQUIRED:

Move to adopt a Resolution, approving Sign Review Application No. 26-0056, subject to conditions.

ATTACHMENTS:

1. Proposed Resolution
2. Sign Package
3. Public Hearing Notice

Planning Commission Staff Report – June 9, 2026  
7 Brew Coffee - Freestanding Sign  
AP-26-0056 (SR)

4. AerialVicinity Map

Prepared by: Maurice Brenyah-Addow, Senior Planner

BEFORE THE PLANNING COMMISSION OF THE CITY OF PITTSBURG

In the Matter of:

Approval of Sign Review to Install a )  
Freestanding Monument Sign at 2155 )  
Railroad Ave. for “7 Brew Coffee” in the )  
CC-Community Commercial District )  
APN: 088-183-011, AP-26-0056 (SR) )

Resolution No.

The Planning Commission DOES RESOLVE as follows:

Section 1. Background

- A. On December 12, 2025, Russ Orsi of Forza Development on behalf of 7 Brew Coffee filed an Administrative Design Review application to alter an existing 3,171 square-foot KFC restaurant facility to a 2,300 square-foot drive-through only 7-Brew Coffee facility. Site improvements include a single extended drive-through lane, addition of landscape area, and removal of parking spaces. That application is currently pending.
- B. On April 30, 2026, Russ Orsi of Forza Development on behalf of 7 Brew Coffee, filed a Sign Review application to construct a 5-foot-tall freestanding monument sign, located at 2155 Railroad Avenue.
- C. The proposed project is governed by the policies, development standards, and guidelines contained in the Pittsburg General Plan, and Pittsburg Municipal Code (PMC) Title 18 (Zoning) and 19 (Sign Regulations).
- D. The proposed 7 Brew Coffee – Freestanding Sign Project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) Guidelines pursuant to Title 14 of the California Administrative Code, Section 15303(e) (New Construction or Conversion of Small Structures) because it involves the construction of a new, small accessory structure (Freestanding Sign). Based on the project’s scope, characteristics, and location, there is no substantial likelihood that the project will have a significant impact on the environment.
- E. On or before May 29, 2026, a notice of the June 9, 2026, public hearing for the proposed project was posted at City Hall; was delivered for posting at the Pittsburg Library; was posted on the “Public Notices” section of the City’s website and was mailed via first class or electronic mail to the applicant, to the property owner, to all owners of property within 300 feet of the project site, to local service agencies expected to provide services to the business, and to individuals who had previously filed written request for such notice, in accordance with PMC section 18.14.010 and Government Code section 65091. In addition, a copy of the notice was posted on [www.nextdoor.com](http://www.nextdoor.com) (“Nextdoor”) and was sent directly to all subscribed

residents in neighborhoods surrounding the project site.

- F. On June 9, 2026, the Planning Commission held a public hearing on Planning Application No. AP-26-0056 (SR), at which time oral and/or written testimony was considered.

## Section 2. Findings

- A. Based on the Planning Commission Staff Report entitled, “7 Brew Coffee – Freestanding Sign, AP-26-0056 (SR)” and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the meeting, the Planning Commission finds that:

1. All recitals above are true and correct and are incorporated herein by reference.
2. PMC section 19.12.020(A) requires at least one or more of the five findings to be met in order for the Planning Commission to permit a freestanding sign.
  - a. Finding A(1): The proposed freestanding monument sign meets the finding in PMC 19.12.020(A)(1), which states that “the business is set back from the street or obscured from view by adjacent structures or vegetation in such a manner that adequate identification cannot be obtained from a sign placed on the building,” in that existing the building is setback approximately 38 feet from the street and mature trees along the street immediately north and south of the property significantly block views of the building from Railroad Avenue and reduces the amount of time drivers have to identify the business from the building-mounted signs. Together, these factors create conditions where adequate identification cannot be achieved through wall signage alone. Therefore, the freestanding sign is necessary to provide clear, advance identification of the business for motorists, meeting the code’s intent and supporting this finding.
  - b. Finding A(2): The proposed freestanding monument sign meets the finding in PMC 19.12.020(A)(2), which states that “A freestanding sign is necessary to provide the business or use with a comparable degree of identity from the street as that available to businesses or uses on neighboring premises but that does not provide an unfair advantage over similar businesses or uses,” in that the proposed freestanding monument sign is similar to other monument signs on this particular stretch of Railroad Avenue and

would provide the business with a level of visibility and identification comparable to that of surrounding businesses. The proposed sign's 5-foot height and 50-sq. ft. area are modest and proportional to the site and do not result in an unfair visual or competitive advantage over similar businesses in the vicinity.

- c. Finding A(3): The proposed freestanding monument sign meets the finding in PMC 19.12.020(A)(3), which states that "The size or width of the property upon which the business or use is located is such that a sign or signs placed on the building do not adequately identify the premises occupied by that use". This finding is not applicable.
  - d. Finding A(4): PMC 19.12.020(A)(4), states that "The architectural style, materials, or elements of construction are such that signs attached to the building would be in conflict with the provisions of Chapter 18.36 PMC." This finding is not applicable, as the proposed freestanding monument sign allows the business to be identified in a manner that is compatible with the site's architecture and surrounding development and maintains the visual quality of the building. Additionally, the proposed wall signs would not conflict with design review provisions in PMC Chapter 18.36.
  - e. Finding A(5): PMC 19.12.020(A)(5) states that "The sign is a master identification sign for a shopping center of four or more individual businesses." This finding is not applicable, as the proposed sign is not a master identification sign for a shopping center consisting of four or more businesses.
3. Consistent with the regulations for Freestanding Signs in PMC section 19.12.020 (B) – (F), the proposed freestanding monument sign complies with height requirements and will not be placed in or project over or into a public right-of-way. The proposed freestanding monument sign will be located on the project site adjacent to a public right-of-way to which the business has direct access. Additionally, the area around the base of the proposed sign will be attractively landscaped and the sign structure supporting the sign will be attractively designed and adequately engineered to support the sign without the use of unsightly braces, poles or wires. The height is only 5 feet and less than the height of the building.

### Section 3. Decision

- A. Based on the findings set forth above, the Commission hereby approves Planning Application No. 26-0056, subject to the following conditions:

City of Pittsburg, Building Division

1. All new businesses must acquire a Business License and a Certificate of Occupancy prior to opening of business within the City of Pittsburg.
2. On the cover sheet, please indicate the building Design Codes applicable to this project. The City of Pittsburg has adopted and enforces the following building Design Codes: 2025 California Administrative Code (CAC), 2025 California Building Code (CBC), 2025 California Historical Building Code (CHBC), 2025 California Existing Building Code (CEBC), 2025 California Green Building Standards Code (CALGreen), 2025 California Mechanical Code (CMC), 2025 California Plumbing Code (CPC), 2025 California Electrical Code (CEC), 2025 California Energy Code (CEC Part 6), 2025 California Fire Code, and the Pittsburg Municipal Code (PMC). Reference CBC Sec. 107.
3. On the cover sheet, please verify the Drawing Index includes all plan sheets. Reference CBC Sec. 107.
4. On the cover sheet, provide or verify the Code Analysis includes the proposed tenant's Use, Occupancy Group, Type of Construction, Separated or Nonseparated Mixed Occupancies, whether or not the building is Fire Sprinklered, Floor Area (S.F.), Number of Stories and Occupant Load. Reference CBC Sec. 111, 302.1, 401, 503, 508, 601, 903 and 1004.1.
5. The preparation of plans or specifications for commercial buildings and tenant improvements shall be performed by a licensed architect or engineer (Exception: Interior alterations that involve only non-bearing partitions). The licensed architect or engineer shall affix a stamp to the plans as evidence of the person's responsibility for the documents. Licensed Mechanical, Plumbing and Electrical Contractors may design the systems that they are to install.
6. The Site Plan shall include code compliant accessible parking spaces and access aisles, and an accessible route from accessible parking spaces to all entrances and exterior ground floor exits. The clear width for sidewalks and walks shall be 48" minimum. The slope of the accessible route shall not exceed 1:20 (5%) in the direction of travel for walking surfaces, 1:12 (8.3%) in the direction of travel for ramps, and the cross slope shall not exceed 1:48 (2%). The slope of curb ramps shall not exceed 1:12 (8.3%). Where the accessible route crosses onto a vehicular route of travel, provide a 36" long continuous detectable warning surface where the pedestrian path crosses or adjoins the vehicular way.
7. At least one accessible route shall be provided within the site from accessible parking spaces and accessible loading zones; public streets and sidewalks; and public transportation stops to the accessible building or facility entrance they serve. Where more than one route is provided, all routes must be accessible.

8. At least one accessible route shall connect accessible buildings, accessible facilities, accessible elements, and accessible spaces that are on the same site.
9. All exterior and interior accessibility requirements for this project shall be designed and built to Chapter 11B of the 2025 California Building Code.
10. All landscaping removed, damaged, or destroyed as part of installation of the Freestanding Sign shall be replaced per the approved site improvement plans.

City of Pittsburg, Engineering Division:

11. The Applicant shall ensure the new sign is located outside of the City's utility easement.

Standard Conditions

12. **Standard Conditions of Development**  
The Standard Conditions of Development, as adopted by the Pittsburg Planning Commission by Resolution No. 8931, shall apply as conditions of approval for this project as applicable. Where there is a conflict between the Standard Conditions and the project-specific conditions identified in this resolution, the specific conditions of this resolution shall govern.
13. **Design of Storm Drain, Water, and Sewer Facilities**  
The design and construction of storm drain, water, and sewer facilities shall be in accordance with PMC Section 17.28.020.
14. **Compliance with PMC Title 12, 13, and 15**  
All site development shall comply with PMC Title 12 (Streets, Sidewalks, and Utilities), Title 13 (Water and Sewers), and Title 15 (Buildings and Construction) as determined by the City Engineer. Issuance of a site development permit will be required whereby specific engineering requirements will be made as conditions of approval.
15. **Other Agency Requirements**  
The Developer shall comply with all the requirements of the Community and Economic Development Department and all other applicable local, state, and federal agencies.
16. **Indemnification**  
Developer agrees to indemnify, defend, and hold harmless the City, its officials, officers, employees, agents and consultants from any and all administrative, legal or equitable actions or other proceedings instituted by any person challenging the validity of this project approval, subsequent project approval, or other action arising out of, or in connection with, this project approval. The parties shall cooperate in defending such action or proceeding. The parties shall use

reasonable efforts to select mutually agreeable defense counsel but, if the parties cannot reach agreement, City may select its own legal counsel at developer's sole cost and expense. Developer may select its own legal counsel to represent developer's interests at developer's sole cost and expense. Developer shall pay for City's costs of defense, whether directly or by timely reimbursement to City on a monthly basis. Such costs shall include, but not be limited to, all court costs and attorneys' fees expended by City in defense of any such action or other proceeding, plus staff and City Attorney time spent responding to and defending the claim, action or proceeding.

17. Expiration of Approval: Sign Review approval for the project shall expire on June 9, 2027, unless a building permit or grading permit has been issued or a written request for extension is filed with the Planning Division prior to the expiration date and subsequently approved by the Planning Commission. The approval shall be valid for no more than six months from the date of building or grading permit issuance, unless work is commenced and diligently pursued prior to the expiration of the building or grading permit.

Section 4. Effective Date

This resolution shall take effect immediately upon its adoption.

On motion by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, the foregoing resolution was passed and adopted the 9<sup>th</sup> day of June 2026, by the Planning Commission of the City of Pittsburg, California by the following vote:

AYES:

NAYES:

ABSTAIN:

ABSENT:

I hereby certify that the above Resolution No. \_\_\_\_\_ was adopted by the Planning Commission of the City of Pittsburg on June 9, 2026.

\_\_\_\_\_  
JOHN FUNDERBURG, SECRETARY  
PITTSBURG PLANNING COMMISSION



2155 Railroad Ave  
Pittsburg, CA 94565

04/07/2026\_(JD/JSC)  
7BREW\_PITTSBURG\_CA\_E

## Revision History

Revision Level	Date	Revision Description
A	01/28/26	- INITIAL NTI BRANDBOOK RELEASE
B	02/05/26	- UPDATED COVER PAGE
C	02/24/26	- REVISED SIGNAGES AND QTY. UPDATED ELEVATIONS - ADDED MENU BOARDS
D	03/02/26	- UPDATED ELEVATION; ADDED 3RD MENU BOARD
E	04/07/26	- UPDATED ELEVATION;

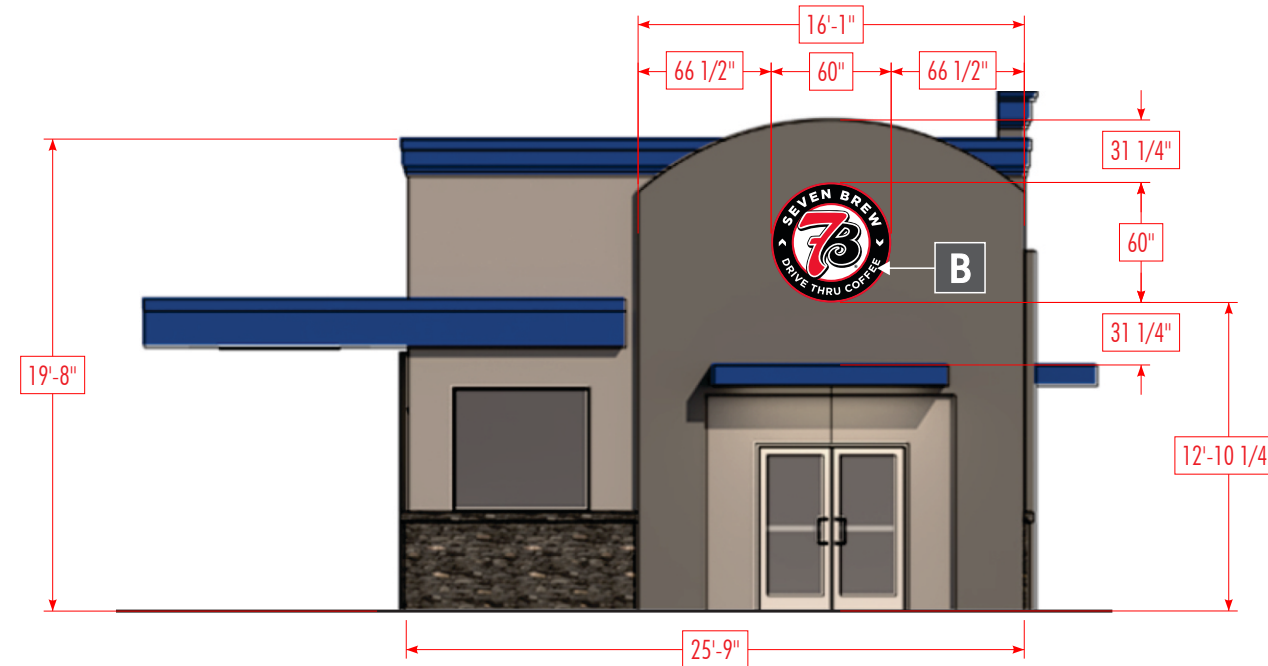
# Site Overview

## SCOPE OF WORK

SIGN	QTY	DESCRIPTION	SQ FT
<b>GROUND SIGNS</b>			
A	1	CUSTOM 5'-0" X 10'-0" DF LED IL MONUMENT SIGN	50.0
<b>WALL SIGNS</b>			
B	1	5' ILLUMINATED DISC LOGO	19.64
C	2	3'-0" X 10'-0" CHANNEL LETTERS	32.08
<b>DIRECTIONALS</b>			
D1	2	REMOVE EXISTING DIRECTIONAL SIGN; INSTALL NEW 3' X 3' DF LED IL DIRECTIONAL SIGN	4.0
D2	1	REMOVE EXISTING DIRECTIONAL SIGN; INSTALL NEW 3' X 3' DF LED IL DIRECTIONAL SIGN	4.0
E	3	55" DISPLAY SF MENU BOARD <b>(TO BE SUPPLIED BY OTHERS)</b>	N/A



# Building Elevations



## WEST ELEVATION

19.67'H x 25.75'W  
 25.75'W x 1SF = 25.75SF Allowed (Capped at 1 sign)



## SOUTH ELEVATION

19.67'H x 89.833'W  
 89.833'W x 1SF = 89.833SF Allowed (Capped at 1 sign)

THIS RENDERING IS FOR REFERENCE AND PERMITTING PURPOSES ONLY  
 ANY SEPARATE OR OPTIONAL COMPONENTS MUST BE ORDERED SEPARATELY

ALL ELECTRICAL SIGNS WILL COMPLY WITH UL 48 – UL FILE #E46729

SCALE : 1:96

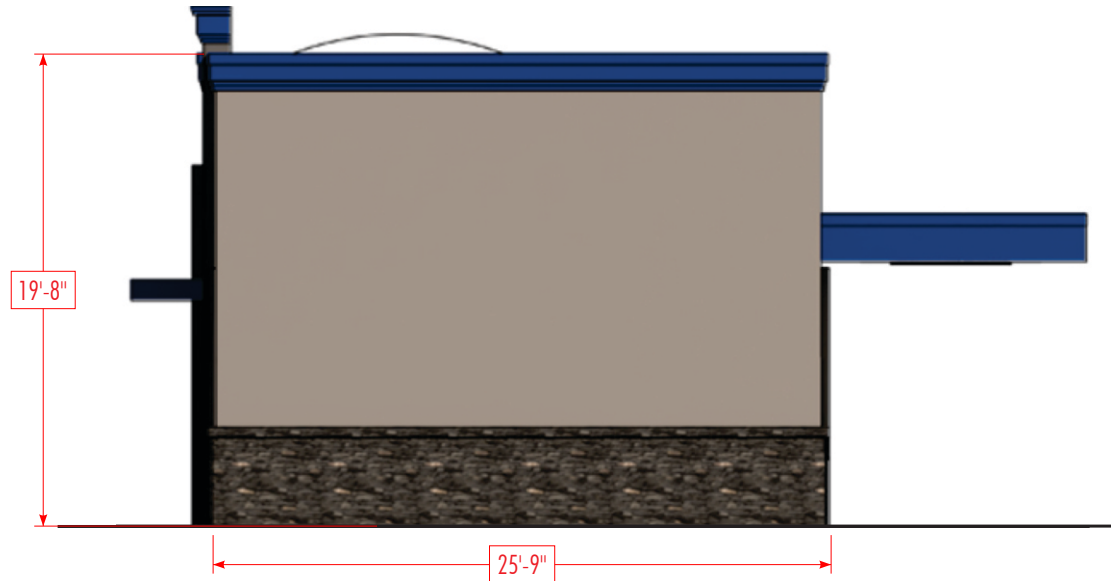
ANY PENETRATIONS DEEMED NECESSARY REQUIRE COORDINATION WITH  
 ROOFING CONTRACTOR TO PREVENT VOIDING ANY CUSTOMER WARRANTY.

Site #/Location: Pittsburg, CA

04/07/2026\_(JD/JSC)

7BREW\_PITTSBURG\_CA\_E Page 80 of 350

# Building Elevations



EAST ELEVATION



NORTH ELEVATION

19.67'H x 94.33'W  
89.833'W x 1SF = 94.33SF Allowed (Capped at 1 sign)

THIS RENDERING IS FOR REFERENCE AND PERMITTING PURPOSES ONLY  
ANY SEPARATE OR OPTIONAL COMPONENTS MUST BE ORDERED SEPARATELY  
ALL ELECTRICAL SIGNS WILL COMPLY WITH UL 48 – UL FILE #E46729

SCALE : 1:96

ANY PENETRATIONS DEEMED NECESSARY REQUIRE COORDINATION WITH ROOFING CONTRACTOR TO PREVENT VOIDING ANY CUSTOMER WARRANTY.

A

# Main ID

Qty: 1

## 5'-0" X 10'-0" CUSTOM DF LED IL MONUMENT

50.0 Sq.Ft



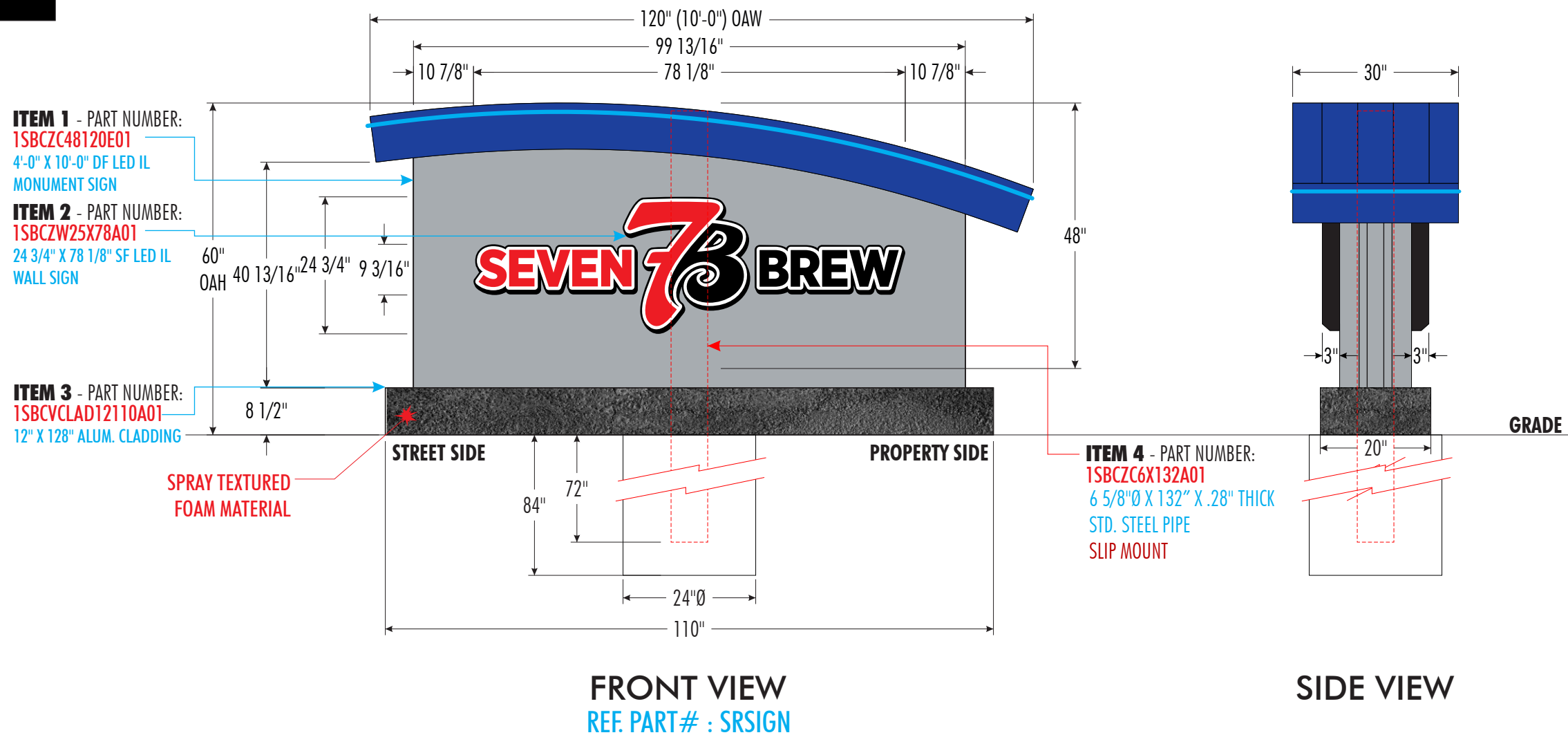
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A	PANTONE 185C	
B	BLACK	
C	WHITE	
D	PMS 293 BLUE	
E	CUSTOM MIX	

### MATERIALS:

1	PLASTIC	FORMED <input checked="" type="checkbox"/>	FLAT <input type="checkbox"/>
2	ALUMINUM		
3	SPRAY TEXTURED		

Custom Paint Mix				
CCE Colorant				
	Oz	32	64	128
B1	2	6	0	1
R2	0	2	0	0
Y3	0	11	1	0
W1	0	7	0	0



SCALE : 1:24

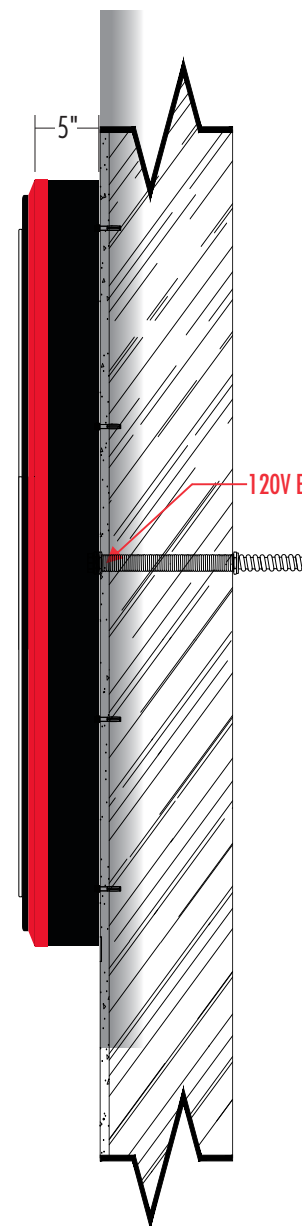
# Channel Disc Logo

5' DIA. ILLUMINATED CHANNEL DISC LOGO

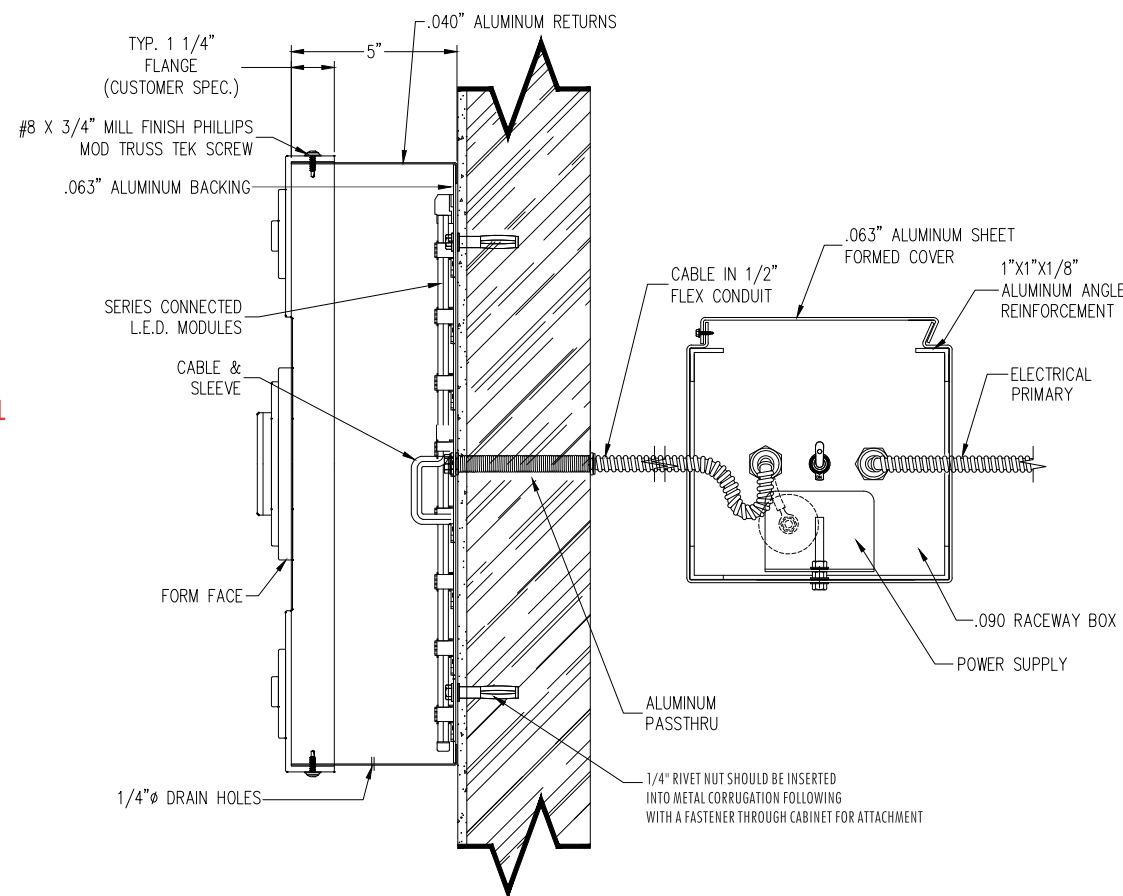
19.64 Sq.Ft



FRONT VIEW  
REF. PART # : SBCZC60X60E02



SIDE VIEW



SECTION VIEW

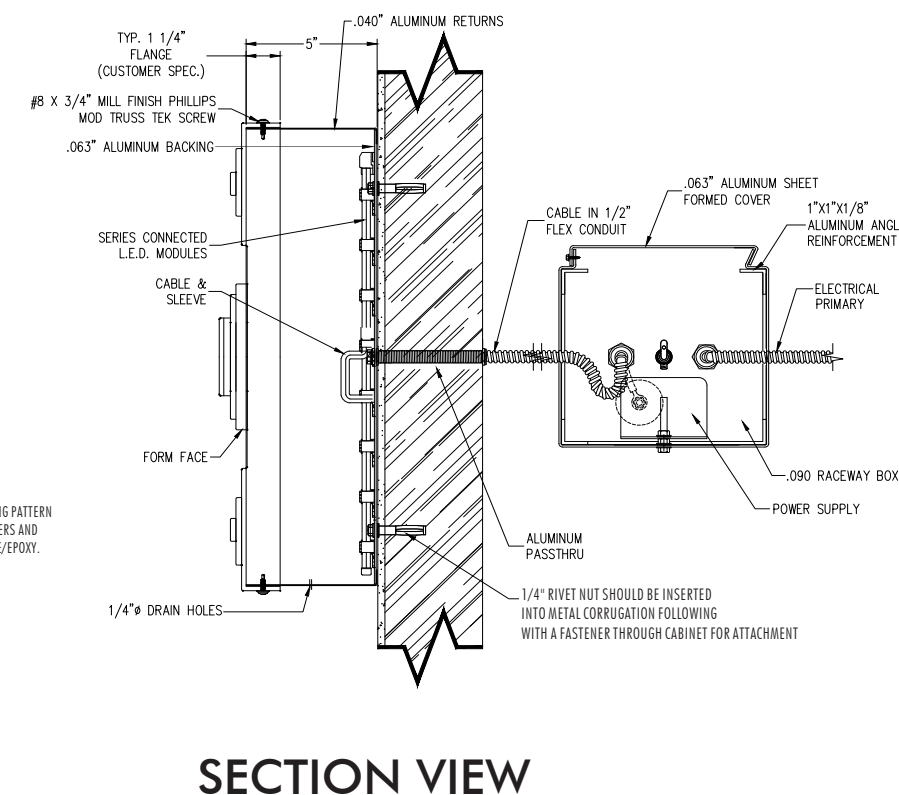
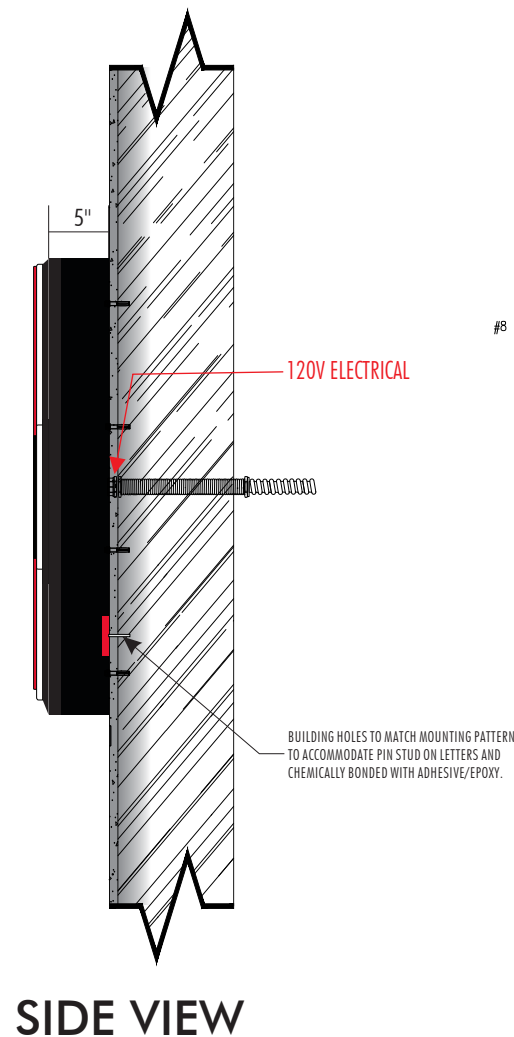
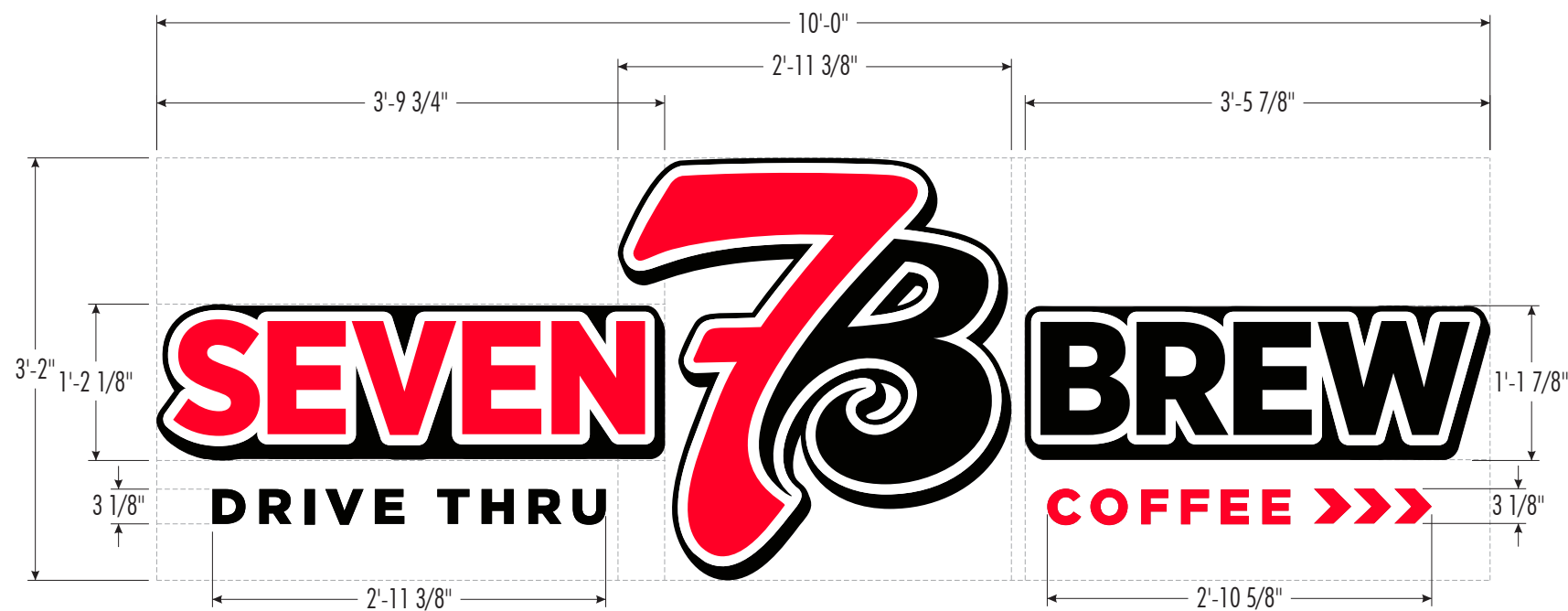


NIGHT ILLUMINATION VIEW

# Standard Building Linear Cloud Sign

3'-0" X 10'-0" CHANNEL LETTERS W/ STUD MOUNT ACRYLIC LETTERS

32.08 Sq.Ft



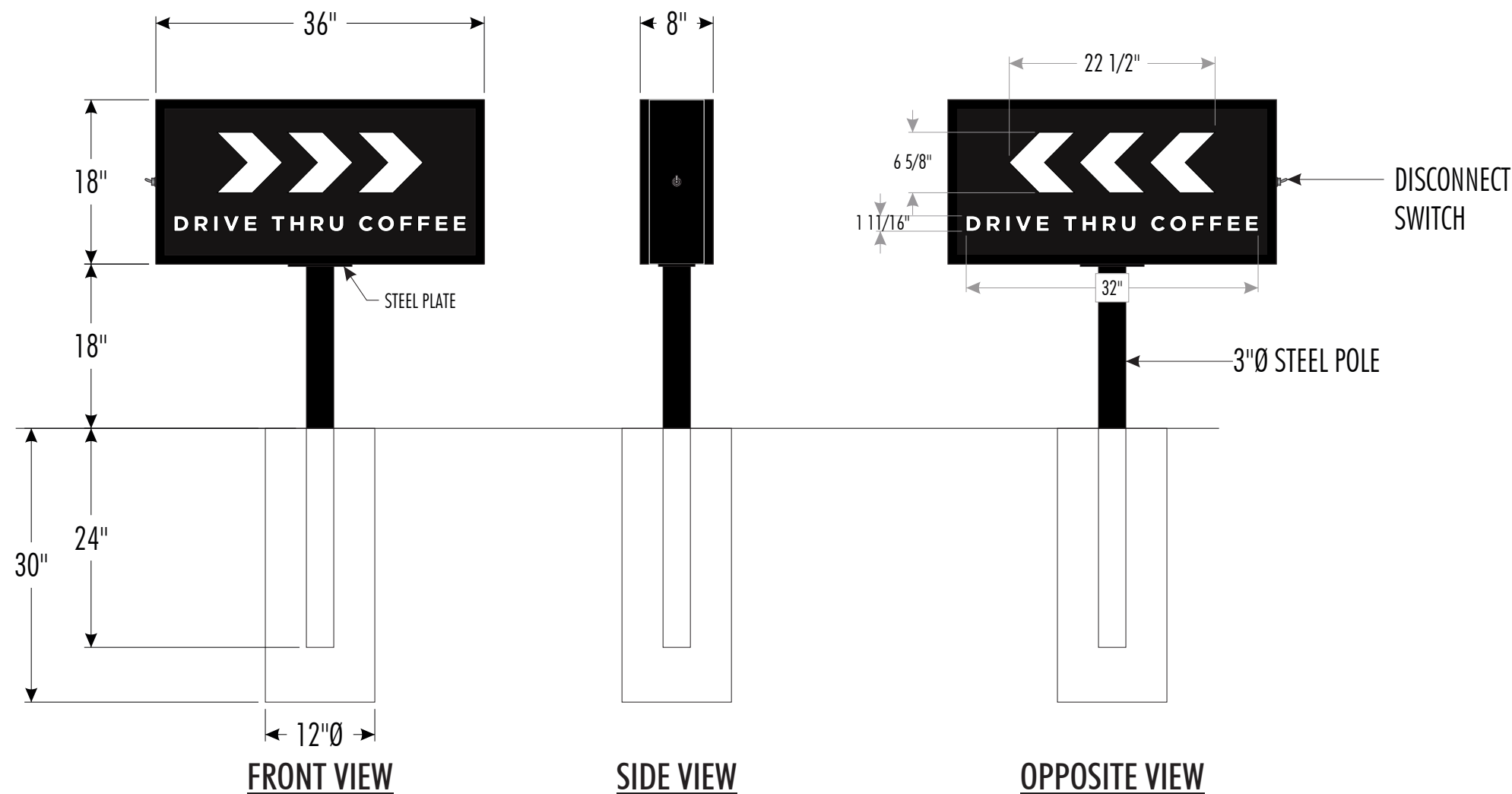
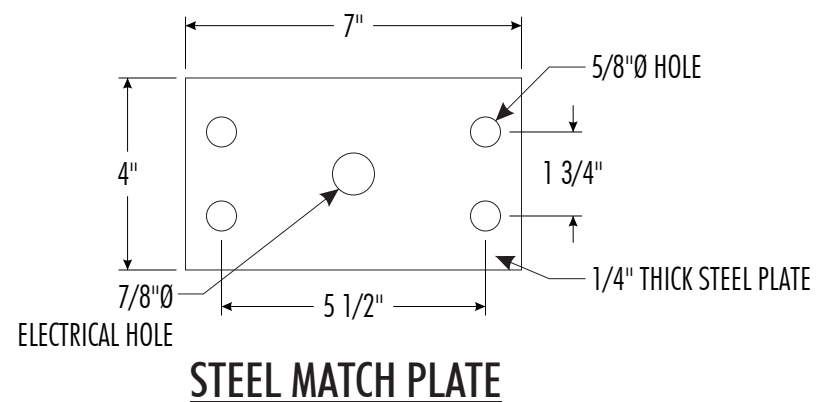
Primary Circuit (120 VAC)	
1.1 Amps	Sign Area
32.08 Sq Ft	Total Module Watts
54.00 Watts	Total System Watts
63.50 Watts	Energy Usage
4.49 Watts/Sq Ft	Total Lumens
8650.00 Lumens	8650.00 Lumens
611.31 Lumens/Sq Ft	

SCALE : 1:15

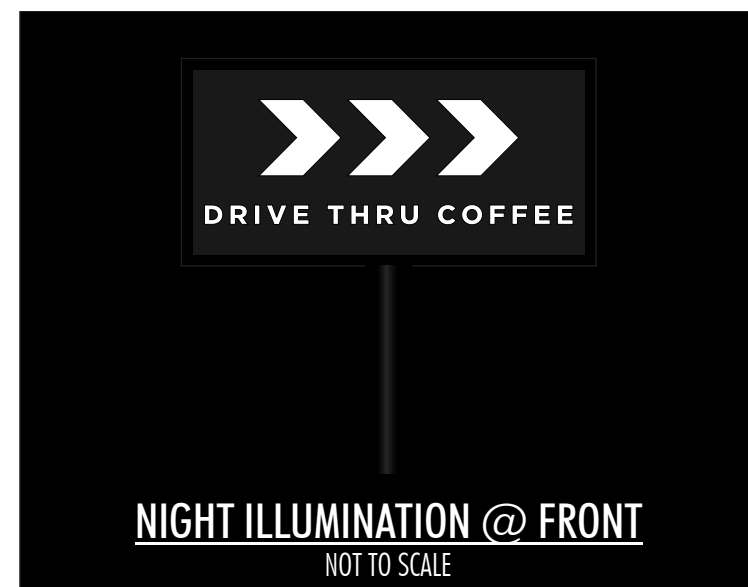
# Wayfinding Signs

3'-0" X 3'-0" SF LED IL DIRECTIONAL SIGN

4.0 Sq.Ft



REF. PART# : SBCVDIR36X36E01

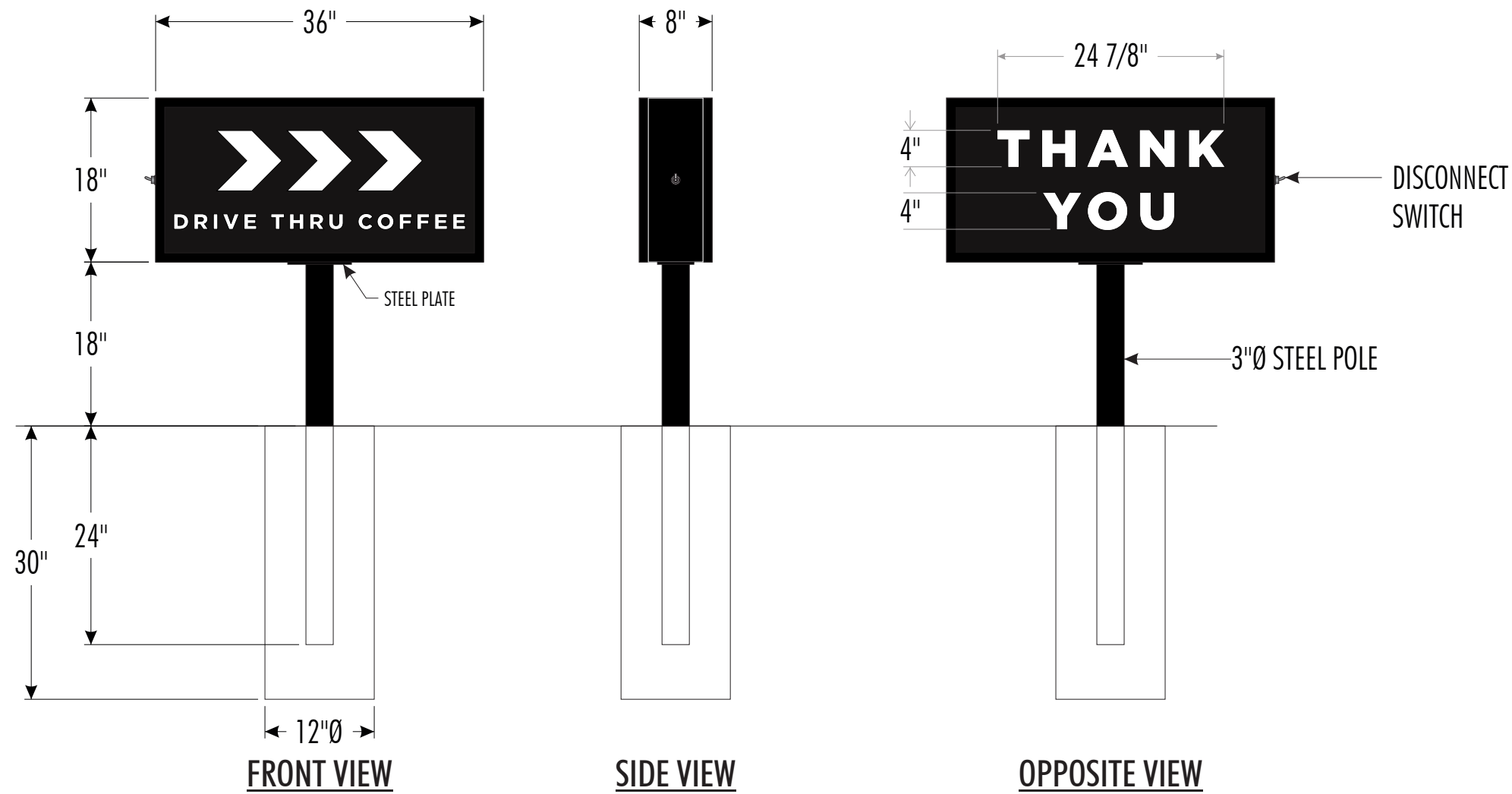
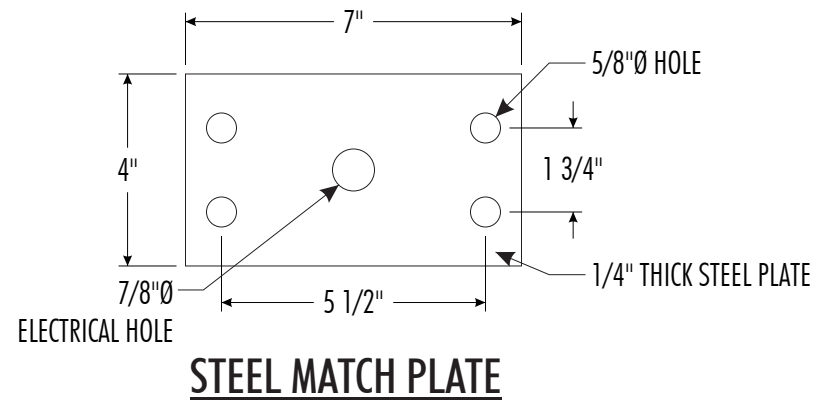


SCALE : 1:8

# Wayfinding Signs

3'-0" X 3'-0" SF LED IL DIRECTIONAL SIGN

4.0 Sq.Ft



REF. PART# : SBCVDIR36X36E01

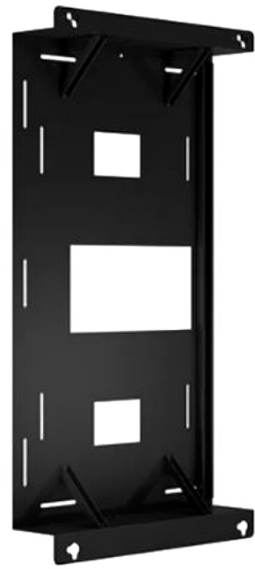


SCALE : 1:8

# Menu Board

SINGLE-FACED MENU BOARD W/ BRACKET

N/A Sq.Ft



HEAVY-DUTY CUSTOM OUTDOOR MOUNT FOR SAMSUNG OUTDOOR 55 INCH DISPLAY



## 55" OHA-S Series FHD Full Outdoor Signage Display OH55A-S

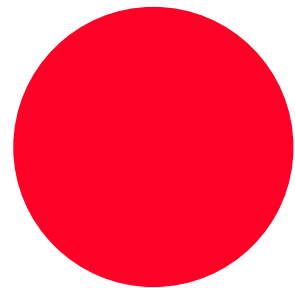
LH550HAESGBXGO

- High visibility
- Water and dust resistant
- Magic Protection Glass

# Brand Standards



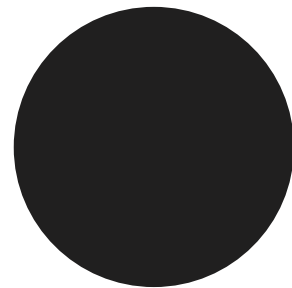
## BRAND COLORS



**PMS 185 C**  
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**M: 100.0%**  
**Y: 78.0%**  
**K: 9.00%**

**R: 231**  
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**B: 51**

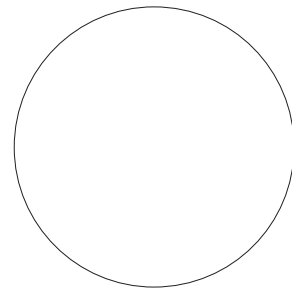
**HEX: E70033**



**BLACK**  
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**Y: 0%**  
**K: 100%**

**R: 35**  
**G: 31**  
**B: 32**

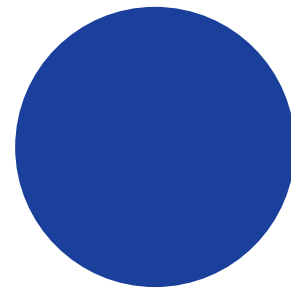
**HEX: 231f20**



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**G: 255**  
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**HEX: ffffff**

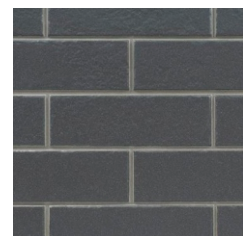


**PMS 293**  
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**K: 35%**

**R: 0**  
**G: 61**  
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**HEX: 003da5**

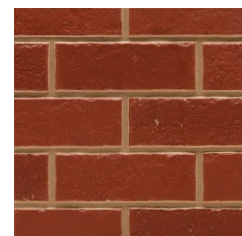
## NICHIHA OPTIONS



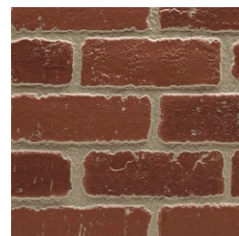
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**FINISH: MODERN BRICK**  
**STANDARD**



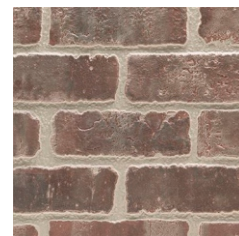
**COLOR: SHALE BROWN**  
**FINISH: CANYON BRICK**  
**STANDARD**



**COLOR: CRIMSON**  
**FINISH: PLYMOUTH BRICK**



**COLOR: ALEXANDRIA BUFF**  
**FINISH: VINTAGE BRICK**



**COLOR: WHITEWASH**  
**FINISH: VINTAGE BRICK**



## Fonts

Gotham Font family from Hoefler & Co.

## PANTONE COLORS

PMS (Pantone Matching System): The most accurate representation of each of the colors. This system is used in print applications instead of — or in addition to — CMYK color.

## CMYK EQUIVALENTS

(Process Color): Process builds use international standards for printing with the four process colors: Cyan, Magenta, Yellow and Black (CMYK). Values range from 0% to 100% for each of the four colors.

## RGB EQUIVALENTS

(Screen Color): For on-screen applications, RGB refers to the three colors of the visual spectrum, Red, Green and Blue. RGB values range from 0 to 255 for each of the three colors.

## HEXADECIMAL VALUES

(Screen Color): For on-screen applications. Hex values are arranged into three groupings of two characters each, representing Red, Green and Blue, and are compatible with HTML and other programming languages.

Jurisdiction: City of Pittsburg, CA  
Zoned: PD Planned Development  
City Contact: Maurice Brenyah-Addow  
City Contact Phone: 925-252-4261  
Sign Regulations Last Updated: 2007  
MSP: No

**Wall Signs:**

1 sign allowed per facade facing street, parking lot, or having a public entrance, no max square footage restriction or aggregate per building. 1SF per linear foot of building frontage or 20SF whichever is greater.

**Ground Signs:**

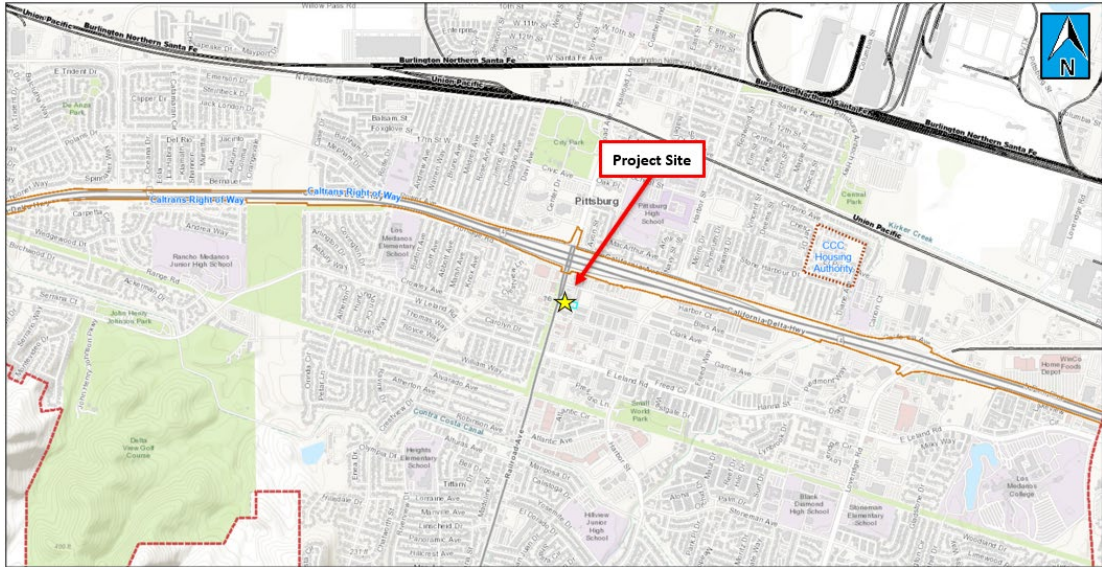
1 per road frontage, count only 1 side of double-faced sign, max height = 1SF per 10ft of lot frontage, max 15ft, 50SF or 50% of the sign area permitted for building signs, no max height, must be out of right of way, can be pylon or monument.

**Ground Directionals:**

Max square footage allowed 4SF

**Project Title:** 7 Brew Coffee – Freestanding Sign, AP-26-0056 (UP, SR)

**Location:** 2155 Railroad Avenue, Pittsburg, CA 94565; Assessor's Parcel No.: 088-183-011



**City of Pittsburg**

**Community and Economic Development Department - Planning Division**

65 Civic Avenue  
Pittsburg, CA 94565





Community and Economic Development Department – Planning Division

## NOTICE OF PUBLIC HEARING

### NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the **PLANNING COMMISSION** of the City of Pittsburg will conduct a public hearing on:

**DATE:** June 9, 2026  
**TIME:** 7:00 p.m.  
**PLACE:** City Council Chamber at City Hall  
65 Civic Avenue, Pittsburg, California

Concerning the following matter:

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**SUBJECT: 7 Brew Coffee – Freestanding Sign, AP-26-0056 (UP, SR)**

Application requesting Sign Review approval for construction of a new 5-foot-tall freestanding monument sign for a 7 Brew Coffee drive-through facility, located at 2155 Railroad Avenue (Currently a KFC fast-food restaurant with drive-through amenities). The site is located within the CC-Community Commercial land use classification of the Railroad Avenue Specific Plan (RASP) area. Assessor's Parcel No.: 088-183-011

#### Environmental Determination

The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Class 3, "New Construction of small structures" of the CEQA Guidelines, section 15303.

**PROJECT PLANNER:** Maurice Brenyah-Addow, (925) 252-4261 or [mbrenyah-addow@pittsburgca.gov](mailto:mbrenyah-addow@pittsburgca.gov)

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**Why am I receiving this notice?** You are receiving this notice because you have either previously requested notifications from the Planning Division, or a project has been proposed in your neighborhood and all property owners within a 300-ft. radius of the project site are required to be notified under the Pittsburg Municipal Code.

**Where can I get more information about this project?** The complete file for this project is available for public inspection; please contact the project planner listed above to make necessary arrangements.

**What can I do if I have comments on the project?** Comments or objections to the project can be made by writing or through e-mailed testimony prior to the meeting or provided orally during the meeting. Written comments citing the project name may be emailed to the project planner listed above or may be mailed or delivered to Pittsburg Planning Division, 65 Civic Avenue, Pittsburg, CA 94565.

Pursuant to Section 65009 of the California Government Code, if you challenge this matter in court, you may be limited to those issues you or someone else raised at the public hearing described in this notice, or in written correspondence on the matter delivered to this agency at, or prior to the public hearing. Any written correspondence delivered to the Planning Division before the hearing body's action on the matter will become a part of the administrative record.

*Para información en  
español:  
(925) 252-4920*

JOHN FUNDERBURG, SECRETARY  
PITTSBURG PLANNING COMMISSION

**CITY OF PITTSBURG  
PLANNING COMMISSION  
STAFF REPORT  
June 9, 2026**

**ITEM: Blue Wave Car Wash Time Extension, AP-26-0016 (EXT); AP-21-1562 (UP, DR, RZ)**

ORIGINATED BY: Isaac Suarez, Project Manager, Cross Development. (Address)

SUBJECT: This is a request for a three-year time extension of the Use Permit and Design Review approved entitlement for the Blue Wave Car Wash project (AP-21-1562). Blue Wave Car Wash was originally recommended for approval by the Planning Commission to the City Council under Planning Commission Resolution No. 10213. The City Council subsequently adopted Ordinance No. 23-1506 and Resolution No. 23-14236 and 23-14237, approving the project. The Blue Wave Car Wash entitlements were set to expire on February 6, 2026. On January 29, 2026, the applicant filed a request for a three-year time extension. The parcel is located in the CC-O (Community Commercial with a Limited Overlay) Zoning District and is identified as 1160 East Leland Road. Assessor's Parcel No. 088-230-028.

RECOMMENDATION: Staff recommends that the Planning Commission adopt a Resolution (Attachment 1) approving Planning Application No. 26-0016, extending Use Permit and Design Review entitlement approvals for a period of three years for the Blue Wave Car Wash project.

BACKGROUND: On December 13, 2022, the Planning Commission adopted Resolution No. 10213, recommending City Council approval of a Rezone, Use Permit, and Design Review application for the Blue Wave Car Wash project. The Blue Wave Car Wash entitlement request included a 1) a Zoning Map Amendment (Rezone) of the 1.36-acre parcel from CC (Community Commercial) to establish a Limited Overlay District (CC-O) to conditionally permit Automobile Washing; 2) a Use Permit to establish an Automobile Washing facility. The Blue Wave Car Wash project proposed construction of one 3,600 square foot self-service car wash with a 100-foot-drive-through vehicle wash tunnel, 26 parking spaces, three 12.5-foot drive-through pay lanes, three drive-through payment stations, 22 vacuum stalls (two Americans with Disabilities Act [ADA] accessible); and paved driveways. Paved surfaces would total 43,971 square feet; and 3) Design Review of architectural and landscape plans to construct a commercial self-service car wash and associated site improvements.

On January 29, 2026, the applicant submitted a written request to the Planning Division seeking a three-year extension of the entitlement approval period. In accordance with Pittsburgh Municipal Code (PMC) Sections 17.16.090 and 18.36.240, as well as the project's Conditions of Approval, such a request, when submitted within the active approval period, permits the reviewing authority to consider an extension. Because the request was submitted prior to the expiration of the approved resolution, the Planning

Commission is authorized to review and act on the extension request. The requested extension is included as Attachment 2 to this Staff Report.

On April 28, 2026, this item was scheduled as a Public Hearing before the Planning Commission. At the April 28, 2026 hearing, staff requested that the item be continued to a date certain of June 9, 2026, due to the receipt of a late public comment letter submitted by Ferguson Law PC on behalf of adjacent property owner E. Leland Road Associates, LLC (ELRA), dated April 27, 2026 (Attachment 5). A response letter dated May 14, 2026 was subsequently submitted by Lubin Olson & Niewiadomski LLP on behalf of the applicant, BlueWave (Attachment 6). Staff has reviewed both letters and determined that the concerns raised in the letters are related to private real property issues between the property owners. These topics are outside the Planning Commission's scope of review, which is only limited to determining whether the requested time extension complies with the applicable requirements of the Pittsburg Municipal Code. See staff's analysis for further discussion.

PROJECT DESCRIPTION: The applicant is requesting a three-year extension of the approvals for the Use Permit and Design Review, which would extend the expiration date to February 6, 2029. The extension is requested to allow adequate time to complete final construction documents and obtain the required Building and Grading Permits necessary to begin site development.

No changes to the design, density, or scope of the previously approved project are proposed as part of this request. Furthermore, there have been no changes in local or State regulations that would affect the project entitlements since their original approval in 2023. Project plans remain unchanged and are included as Attachment 3 to this Staff Report.

GENERAL PLAN/CODE COMPLIANCE:

General Plan/Zoning: The General Plan land use designation and zoning classification for the site have not changed since the initial project approval on February 6, 2023.

Property Development Regulations: The City's Property Development Regulations provide site development standards for projects within the City and include, but are not limited to, setbacks, lot coverage, and parking. All Property Development Regulations were complied with at time of original project approval. Additional analysis may be found in the previous Planning Commission Staff Report for this item.

Development Review Design Guidelines: The City's Development Review Design Guidelines (DRDG) provide additional framework for the Design Review of development projects. All DRDG's were complied with or conditioned for compliance at time of original project approval. Additional analysis may be found in the previous Planning Commission Staff Report for this item.

Required Use Permit and Design Review Findings: Findings were previously made for the Blue Wave Car Wash project in accordance with Pittsburg Municipal Code Sections 18.16.040 (Use Permit) and 18.36.220(B) (Design Review). An analysis of how Blue Wave Car Wash complies with the required Findings of the PMC is included in the previous Planning Commission Resolution and Staff Report for this item.

Environmental Analysis: This project is exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines section 15061(b)(3). Section 15061(b)(3) states that “CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.” The proposed request is a Time Extension only for an additional three years for an existing, approved project. There is no possibility that this Time Extension request may have a significant effect on the environment and, therefore, is not subject to CEQA. The underlying automobile washing facility project approvals underwent separate environmental analysis and there have been no proposed revisions or modifications to project since the original approvals (State Clearinghouse Number 2022080293).

Public Notice: On or prior to May 29, 2026, a “Notice of Public Meeting” for June 9, 2026 public meeting on this item was posted at City Hall, was delivered to the Contra Costa County – Pittsburg Branch Library, and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the proposed project site, to local service agencies whose services might be affected by this project, and to individuals who had previously filed written request for such notice.

See Attachment 4 for the Public Hearing Notice.

ANALYSIS: The Blue Wave Car Wash development would be accessed off East Leland Road, sharing an existing two-way driveway along the eastern boundary with the adjacent gas station and would also share an existing two-way driveway along the western boundary with the adjacent dialysis center. Cars entering through the northeast driveway would turn right into the access drive, continue along the northern portion of the project site, and turn left along the western portion of the project site to access either the vacuum area or queueing area. Cars entering through the northwest driveway would either turn left into the vacuum stall area or continue to the existing access drive at the southwest portion of the project site, which would lead to the three-lane car wash queueing area. Cars would queue along the southern end of the project site, provide payment at the drive-through stations at southeast corner of the project site, and drive along the east end of the project site before turning into the drive-through vehicle wash tunnel. The on-site circulation patterns are included in the project’s Plan Set, included as Attachment 3 of this Report. Further, this access is codified within Contra Costa County Recorded Document Numbers 2005-0482993, 2008-0084357-00, and 2010-0066990-00.

The project would be developed in accordance with the objective of the Zoning Ordinance, the purposes of the Land Use District in which it is located and is appropriate

to the specific location, in that the CC-O Zoning District conditionally permits Automobile Washing. The use would not be detrimental to the health, safety, and general welfare of the City and will not adversely affect the orderly development of property within the City, in that the proposed development is controlled through Conditions of Approval and strictly regulated by the previously adopted Mitigation Monitoring and Reporting Program (MMRP). Compliance with Conditions and the MMRP will ensure orderly development continues within the area, as well as the promotion of health and safety at all points during project construction and future operation. The proposed project further complies with the goals and objectives of the 2040 General Plan by utilizing a site that is currently vacant and, thus, underutilized.

The City's tax base and other substantial revenue sources within the City would only be increased upon with this development, as there is no revenue source on site presently. Additionally, the use is consistent with the City's approved funding priorities in that there is no public funding proposed for the development. It will not create a demand for public services within the City beyond that of the ability of the City to meet in light of taxation and spending restraints imposed by law as there all utilities and off-site improvement have been established and are in satisfactory condition. The development will not create a nuisance or enforcement problem within the neighborhood, nor will it encourage marginal development within the neighborhood.

The Blue Wave Car Wash project previous approvals conform with good taste, good design and in general would contribute to the character and image of the City as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high-quality, in that it provides an attractive, modern-looking building within a highly landscaped environment. The project would protect against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable, if it complies with all applicable California Building Codes and the adopted Mitigation and Monitoring Reporting Program for the project.

The project would not be of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value; rather, construction of the Automobile Washing facility would heighten the appearance of neighborhood, improve property values, and attract additional investment in the area. The design of the new building would improve the appearance of the site, which is currently vacant. The approved Automobile Washing facility would have a modern and sleek appearance with a variety of materials and colors used on its exterior. New landscaping along the East Leland Road frontage would also enhance the appearance of the site. The Conditions of Approval for the project development ensure compliance with the City-adopted Development Review Design Guidelines.

### *Time Extension Analysis*

The Time Extension request is consistent with the provisions of the PMC, which allows for extensions of entitlement approvals when an application requesting an extension is

filed before the expiration of the approved entitlement. In this case, the applicant has filed the time extension request prior to the date of expiration of February 6, 2026. Further, the applicant has identified ongoing supply chain issues and preparation of detailed construction plans as factors necessitating additional time for development of the site. These are typical steps for a project of this scale and are essential for ensuring compliance with all applicable City codes and building standards before construction begins.

Further, the applicant's request is limited to a time extension of previously approved entitlements and does not involve any proposed modifications to the approved project, site design, or conditions of approval. Staff has reviewed the correspondence letters submitted and has determined that the matters raised concern a private dispute between property owners regarding real property rights. The Commission's consideration is only limited to whether the findings required for granting a time extension can be made and whether the approved project remains consistent with the applicable policies and regulations within the Pittsburg Municipal Code and General Plan, and existing approved conditions of approval. Staff finds after receiving and reviewing the letters it does not alter the original analysis or findings supporting approval of the requested time extension.

Staff still finds and believes that there is good cause to grant a three-year extension of the approved Use Permit and Design Review, as the project supports the orderly development of a major commercial corridor and the activation of a long-vacant, commercially zoned site. The project advances infill development consistent with General Plan Policies 2-P-1.2 and 2-P-1.4 by promoting land use compatibility and encouraging reinvestment in underutilized property contiguous with existing development. The approved use has undergone prior environmental review and design analysis, ensuring consistency with all regulatory requirements and applicable standards.

ACTION REQUIRED:

Move to adopt a Resolution approving a three-year time extension of Use Permit and Design Review entitlements for the Blue Wave Car Wash Project, Planning Application No. 26-0016 (EXT).

ATTACHMENTS:

1. Proposed Resolution
2. Request for Entitlement Extension from Applicant Dated January 29, 2026
3. Project Plans
4. Notice of Public Hearing/Vicinity Map
5. Ferguson Law PC public comment letter dated April 27, 2026
6. Lubin Olson & Niewiadomski LLP public comment letter dated May 14, 2026

Prepared by: Kelsey Gunter, Associate Planner

BEFORE THE PLANNING COMMISSION OF THE CITY OF PITTSBURG

In the Matter of:

Extending the Use Permit and Design Review, )  
Term of Entitlement Approval by Three Years )  
For the Blue Wave Car Wash Development )  
Project, AP-26-0016 (EXT). )

RESOLUTION NO.

The Planning Commission DOES RESOLVE as follows:

Section 1. Background

- A. On April 2, 2021, Daniel A. Moradel with CEI Engineering Associates, Inc., filed Planning Application No. 21-1562, requesting approval of 1) Zoning Map Amendment from CC (Community Commercial) to establish a Limited Overlay District (CC-O) to conditionally permit Automobile Washing, 2) a Use Permit to establish an automatic Automobile Washing facility, and 3) a Design Review application to construct one 3,600 square foot commercial, self-service car wash building. The project site is located at 1160 E. Leland Road, Assessor's Parcel Number (APN): 088-230-028.
- B. On December 13, 2026, the Planning Commission held a public hearing on Planning Application No. 21-1562, and adopted Resolution No. 10213, providing a recommendation of approval to the City Council for the proposed Use Permit and Design Review approval for the development.
- C. Standard Condition of Approval "E" of Planning Commission Resolution No. 10213 allowed the applicant three years from the date of the project's public hearing to obtain a Building or Grading Permit for the project, or to submit a written request to the Planning Division for an extension of approval.
- D. On January 29, 2026, Isaac Suarez, project manager with Cross Development, submitted a written request to the Planning Division seeking a three-year extension of the entitlement approval period, as authorized by Planning Commission Resolution 10213. In accordance with Pittsburg Municipal Code (PMC) Sections 17.16.090 and 18.36.240, as well as the project's Conditions of Approval, such a request, when submitted within the active approval period, permits the reviewing authority to consider an extension. The request was submitted prior to expiration of the resolution, thereby allowing the Planning Commission to consider the request.
- E. On April 28, 2026, this item was scheduled as a Public Hearing before the Planning Commission. At the April 28, 2026 hearing, staff requested that the item be continued to a date certain of June 9, 2026, to review a late public comment letter received.

- F. The proposed project is governed by the applicable goals and policies of the Pittsburg General Plan and the PMC.
- G. The General Plan land use designation and zoning classification for the site have not changed since the initial City Council project approval on February 6, 2023.
- H. On June 9, 2026, the Planning Commission considered the request to approve Planning Application No. 26-0016, extending the entitlement approval for a period of three-years for the Blue Wave Car Wash Development Project, subject to conditions.

## Section 2. Findings

- A. Based on the Planning Commission Staff Report entitled, "Blue Wave Car Wash Time Extension, AP-26-0016 (EXT); AP-21-1562 (UP, DR, RZ)" dated June 9, 2026, and based on all the information contained in the Planning Division files on this project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue, and based on evidence presented to the Planning Commission on June 9, 2026, the Planning Commission finds that:
  - 1. All recitals above are true and correct and are incorporated herein by reference.
  - 2. Since the adoption of Planning Commission Resolution No.10213, on December 13, 2022, there have been no General Plan or Zoning Ordinance amendments related to the affected property.
  - 3. Since the adoption of City Council Ordinance No. 23-1506, and Resolution No. 23-14236 and 23-14237 on February 6, 2023, there have been no General Plan or Zoning Ordinance amendments related to the affected property.
  - 4. The Notice of Determination (NOD) for the project was prepared in compliance with the California Environmental Quality Act Guidelines Section 15075, and there have been no changes to the project or with respect to the circumstances under which the project is being undertaken which require revisions to the environmental review.
  - 5. The approved Blue Wave Car Wash development project has not changed since the original project approval on February 6, 2023.
  - 6. The request for extension of the project review approval was filed within the effective period of approval, in compliance with the requirements of PMC Sections 18.36.240, 17.16.090, and the project's Conditions of Approval.

7. There is good cause to grant a three-year extension of the approved Use Permit and Design Review, as the project supports the orderly development of a major commercial corridor and the activation of a long-vacant, commercially zoned site. The project advances infill development consistent with General Plan Policies 2-P-1.2 and 2-P-1.4 by promoting land use compatibility and encouraging reinvestment in underutilized property contiguous with existing development. The approved use has undergone prior environmental review and design analysis, ensuring consistency with all regulatory requirements and applicable standards.

### Section 3. Decision

Based on the findings set forth above, the Planning Commission hereby approves AP-26-0016, extending the term of Use Permit and Design Review approval for Planning Application No. 21-1562 by three years, subject to all of the original Conditions of Approval within Resolution No. 10213, with the exception of Standard Condition of Approval "E," which is replaced by the following:

- E. Expiration of Approval: Use Permit and Design Review approval will expire on February 6, 2029, unless a Building Permit or Grading Permit has been issued or a written request for extension is filed with the Planning Division prior to the expiration date and subsequently approved by the Planning Commission. The approval shall be valid for no more than six months from the date of Building or Grading Permit issuance unless work is commenced and diligently pursued prior to the expiration of the Building or Grading Permit. The term of the Use Permit approval shall be co-terminus with the Design Review approval for this project.

### Section 4. Effective Date

This resolution shall take effect immediately upon its adoption.

On motion by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, the foregoing resolution was passed and adopted the 9<sup>th</sup> day of June 2026, by the Planning Commission of the City of Pittsburg, California, by the following vote:

AYES:

NAYES:

ABSTAIN:

ABSENT:

I hereby certify that the above Resolution No. \_\_\_\_\_ was adopted by the Planning Commission of the City of Pittsburg on June 9, 2026.

---

JOHN FUNDERBURG, SECRETARY  
PITTSBURG PLANNING COMMISSION



8700 Jameel Road, Suite 150  
Houston, TX 77040

T 877.503.0008

cs@bluewaveexpress.com  
bluewaveexpress.com

Stratton Poland  
Executive Vice President  
2175 Francisco Blvd E, Ste.G  
San Rafael, CA 94901

January 29, 2026

Subject: Request for Extension of Entitlements of Bluewave Car Wash (AP-21-1561)

Dear Planning Director and Planning Department Staff,

On behalf of the project ownership team, we respectfully submit this request for an extension of the approved entitlements for the above-referenced BlueWave express car wash project. Since entitlement approval, the project team has proceeded diligently and in good faith toward securing building permits and advancing the project to construction. However, several factors outside of our direct control have contributed to delays in permit issuance and overall project progression.

Specifically, the project has required additional time for detailed site functionality analysis and value engineering to ensure long-term operational viability while maintaining compliance with City standards and conditions of approval. Further, the project has undergone extended review and coordination with PG&E related to utility service requirements and infrastructure considerations, which has impacted the timing of permit readiness.

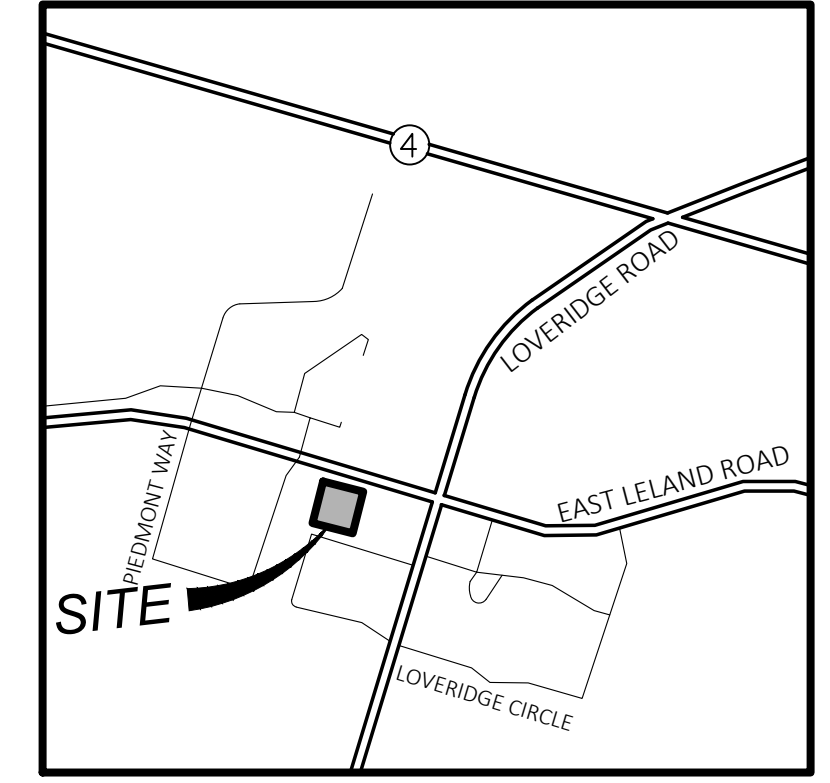
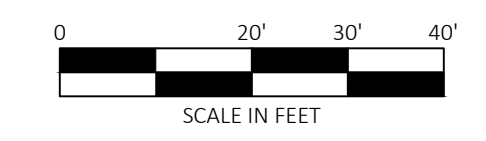
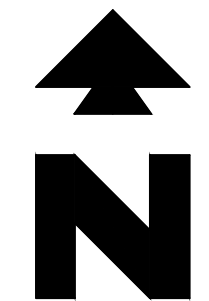
In addition, the project team has worked collaboratively with adjacent property owners to address site access, boundary conditions, and operational interface considerations. These efforts required design revisions and supplemental review to ensure compatibility with neighboring uses and to mitigate potential off-site impacts. This coordination was undertaken proactively and in the interest of producing a well-vetted, context-sensitive project consistent with the City's planning objectives.

Despite these delays, the applicant remains fully committed to developing the project as approved and in conformance with all applicable conditions, codes, and regulations. Accordingly, we respectfully request approval of an extension of the project entitlements for the maximum duration permitted under the Planning Department's discretionary authority. Granting this extension will allow the project to proceed in an orderly manner and will avoid unnecessary re-entitlement of a project that has already been reviewed and approved by the City. We value our ongoing partnership with the City of Pittsburg and look forward to delivering a high-quality project that contributes positively to the community.

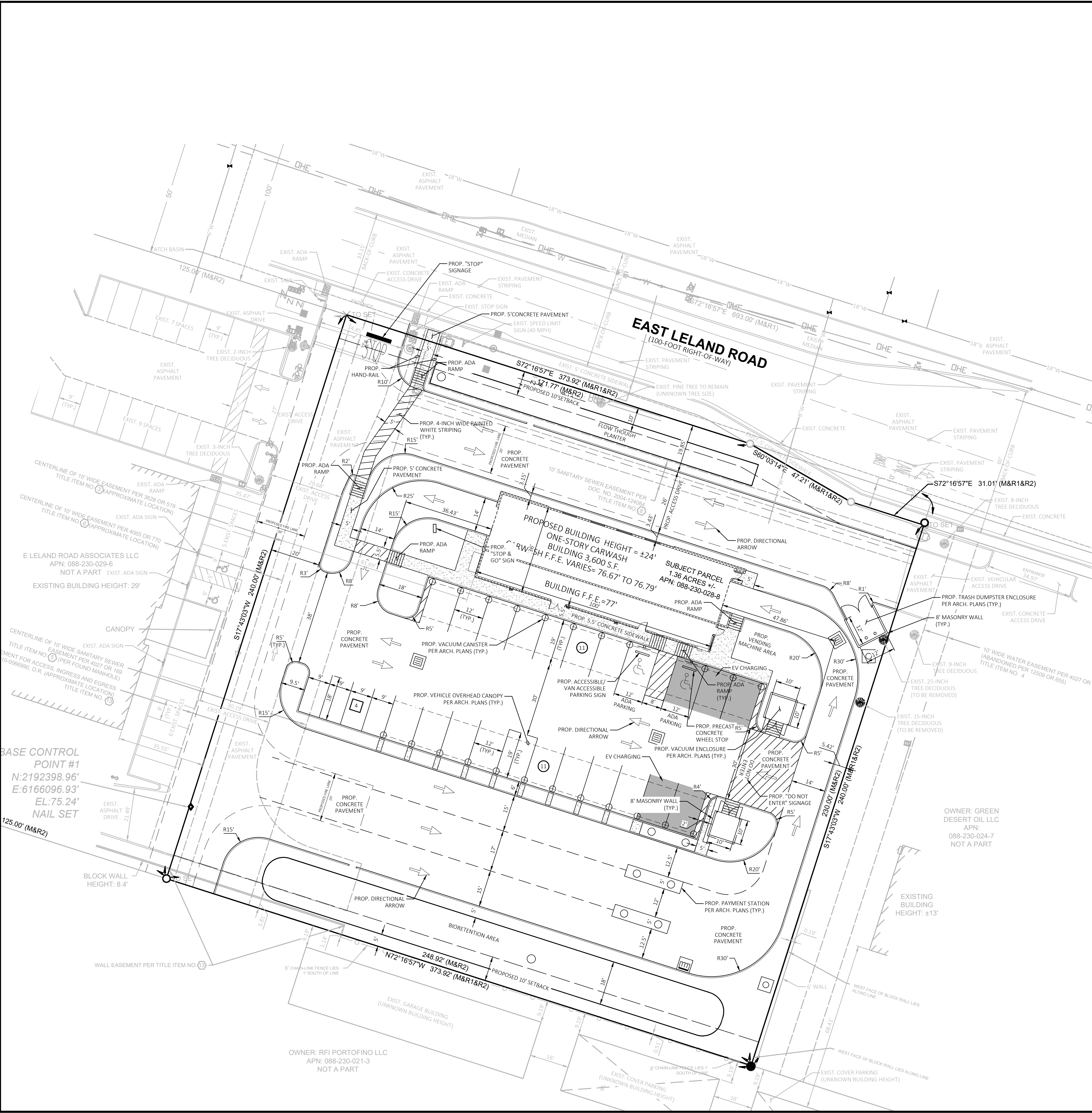
Sincerely,

A handwritten signature in blue ink that reads "Stratton Poland".

Stratton Poland



VICINITY MAP  
NOT TO SCALE



EXISTING LEGEND

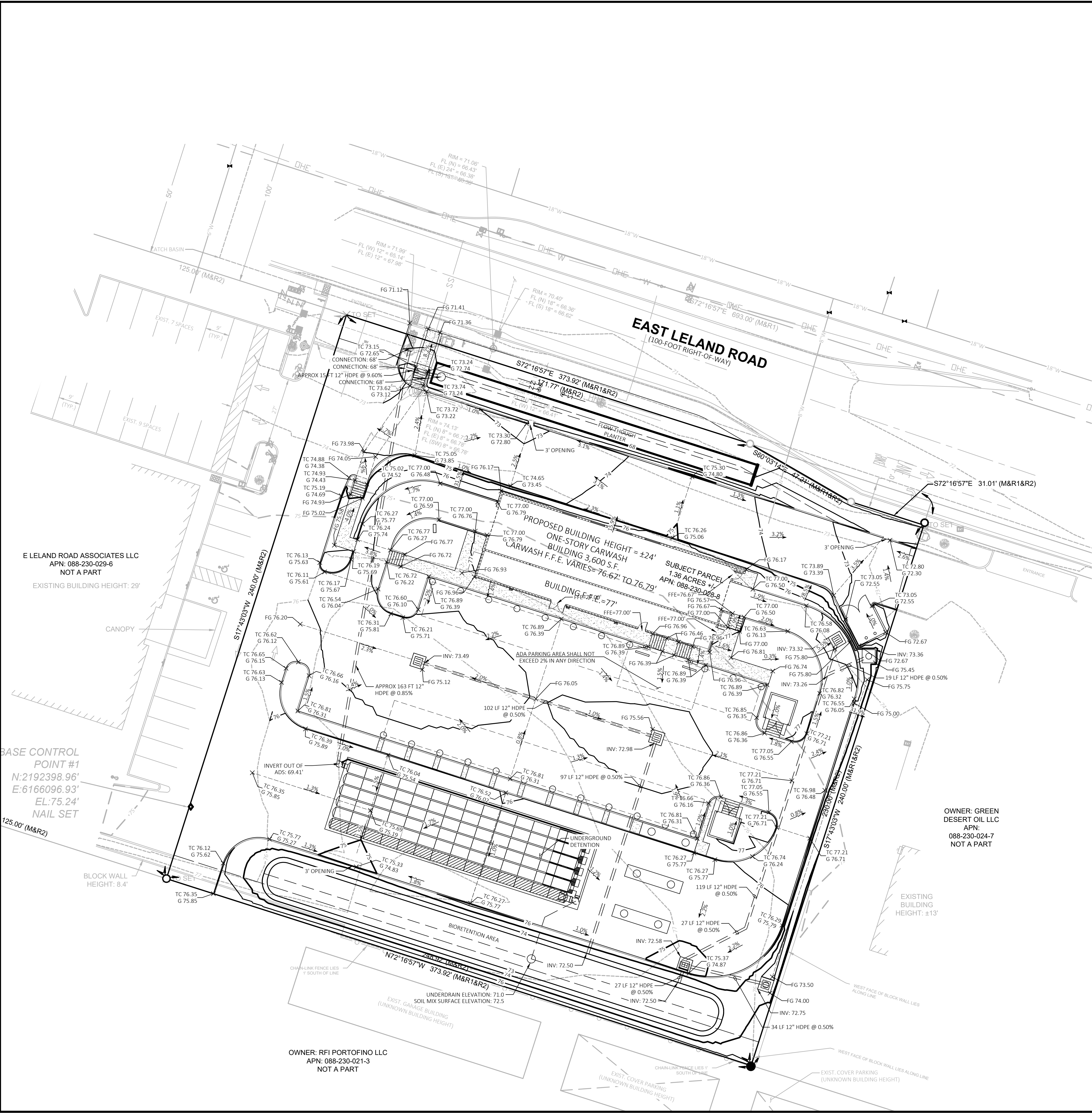
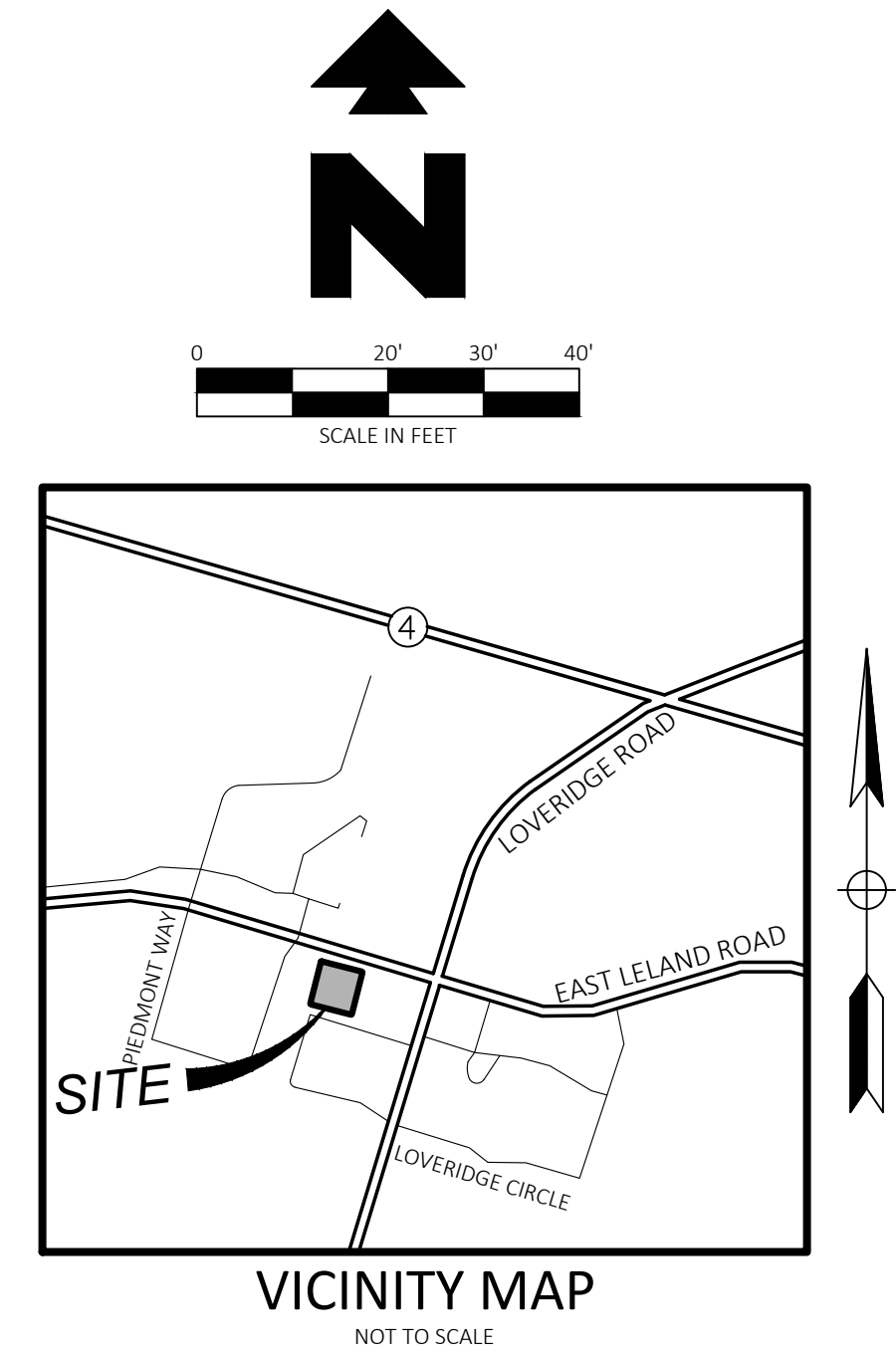
- |   |                            |   |                              |
|---|----------------------------|---|------------------------------|
| N | CONTROL-IRON PIPE          | ↑ | STRIPING - ARROW STRAIGHT    |
| ◆ | CONTROL-NAIL SET           | ⊠ | TELEPHONE - BOX              |
| ⊠ | DOME                       | ⊠ | TELEPHONE - VAULT            |
| ⊠ | ELECTRIC - BOX             | ⊠ | TRAFFIC SIGNAL - BOX         |
| ⊠ | ELECTRIC - RISER           | ⊠ | TREE - DECIDUOUS             |
| ⊠ | ELECTRIC - VAULT           | ⊠ | UNKNOWN - BOX                |
| ⊠ | FIRE DEPARTMENT CONNECTION | ⊠ | WATER - BOX                  |
| ⊠ | FIRE HYDRANT               | ⊠ | WATER - METER                |
| ⊠ | IRON PIPE FOUND            | ⊠ | WATER - VALVE                |
| ⊠ | IRON PIPE SET              | — | ROAD CENTERLINE              |
| ⊠ | IRRIGATION CONTROL VALVE   | — | CHAIN LINK FENCE             |
| ⊠ | LIGHT POLE                 | — | TELEPHONE LINE - UNDERGROUND |
| ⊠ | LIGHT POLE - 2 LIGHTS      | — | UGT                          |
| ⊠ | POWER - POLE               | — | DHE                          |
| ⊠ | ROOF DRAIN                 | — | UGE                          |
| ⊠ | SANITARY SEWER - MANHOLE   | — | W                            |
| ⊠ | SIGN                       | — | SS                           |
| ⊠ | SIGN - STOP                | — | ELECTRIC LINE - UNDERGROUND  |
| ⊠ | STORM DRAIN - GRATE        | — | WATER LINE - UNDERGROUND     |
| ⊠ | STORM DRAIN - MANHOLE      | — | SEWER LINE - UNDERGROUND     |
| ⊠ | STRIPING - ARROW RIGHT     | — | STORM LINE - UNDERGROUND     |
|   |                            | — | PROPERTY BOUNDARY LINE       |
|   |                            | — | BUILDING OUTLINE             |
|   |                            | — | ADJACENT PROPERTY LINE       |
|   |                            | — | EXISTING EASEMENT LINE       |

PROPOSED LEGEND

- |   |   |
|---|---|
| — | PROPERTY LINE/RIGHT OF WAY LINE                           |
| — | CONCRETE CURB AND GUTTER. SEE DETAIL 018.                 |
| — | LIMITS OF SIDEWALKS AND CONCRETE APRONS (PER ARCH. PLANS) |
| — | EV CHARGING   |

SITE DATA	
SITE AREA	1.36 ACRES (59,242 ±SF)
BUILDING AREA	3,600 SF
PARKING REQUIRED	1/200 = 22 SPACES
PARKING PROVIDED	26 SPACES
# OF VACUUM STALLS	20 CUSTOMER, 2 ADA
# OF EMPLOYEE PARKING	4 EMPLOYEE PARKING
# OF PAY STATIONS	3 PAY STATIONS
LANDSCAPE PERCENTAGE	±27%
LOT COVERAGE	6.3%

DRAWING LOCATION: P:\31000\31890\DRAWINGS\DESIGN\TITLEMENT PHASE1.DWG - SAVED BY: EMARTINEZ



EXISTING LEGEND

<ul style="list-style-type: none"> <li>BACKFLOW PREVENTOR</li> <li>CONTROL - IRON PIPE</li> <li>CONTROL - NAIL SET</li> <li>DOME</li> <li>ELECTRIC - BOX</li> <li>ELECTRIC - RISER</li> <li>ELECTRIC - VAULT</li> <li>FIRE DEPARTMENT CONNECTION</li> <li>FIRE HYDRANT</li> <li>IRON PIPE FOUND</li> <li>IRON PIPE SET</li> <li>IRRIGATION CONTROL VALVE</li> <li>LIGHT POLE</li> <li>LIGHT POLE - 2 LIGHTS</li> <li>POWER - POLE</li> <li>ROOF DRAIN</li> <li>SANITARY SEWER - MANHOLE</li> <li>SIGN</li> <li>SIGN - STOP</li> <li>STORM DRAIN - GRATE</li> <li>STORM DRAIN - MANHOLE</li> <li>STRIPING - ARROW RIGHT</li> </ul>	<ul style="list-style-type: none"> <li>STRIPING - ARROW STRAIGHT</li> <li>TELEPHONE - BOX</li> <li>TELEPHONE - VAULT</li> <li>TRAFFIC SIGNAL - BOX</li> <li>TREE - DECIDUOUS</li> <li>UNKNOWN - BOX</li> <li>WATER - BOX</li> <li>WATER - METER</li> <li>WATER - VALVE</li> </ul>	<ul style="list-style-type: none"> <li>ROAD CENTERLINE</li> <li>CHAIN LINK FENCE</li> <li>TELEPHONE LINE - UNDERGROUND</li> <li>ELECTRIC LINE - OVERHEAD</li> <li>ELECTRIC LINE - UNDERGROUND</li> <li>WATER LINE - UNDERGROUND</li> <li>SEWER LINE - UNDERGROUND</li> <li>STORM LINE - UNDERGROUND</li> <li>PROPERTY BOUNDARY LINE</li> <li>BUILDING OUTLINE</li> <li>ADJACENT PROPERTY LINE</li> <li>EXISTING EASEMENT LINE</li> </ul>
---	---	--

PROPOSED LEGEND

<ul style="list-style-type: none"> <li>PROPERTY LINE/RIGHT OF WAY LINE</li> <li>CONTOUR ELEVATIONS</li> <li>GRADE BREAK</li> <li>FLOWLINE</li> <li>STORM DRAIN</li> <li>GRATE INLET</li> <li>AREA INLET</li> <li>COMBINATION INLET</li> </ul>	<ul style="list-style-type: none"> <li>SPOT ELEVATIONS: TC = TOP OF CURB G = GUTTER FFE = FINISH FLOOR ELEVATION FG = FINISH GRADE</li> </ul>
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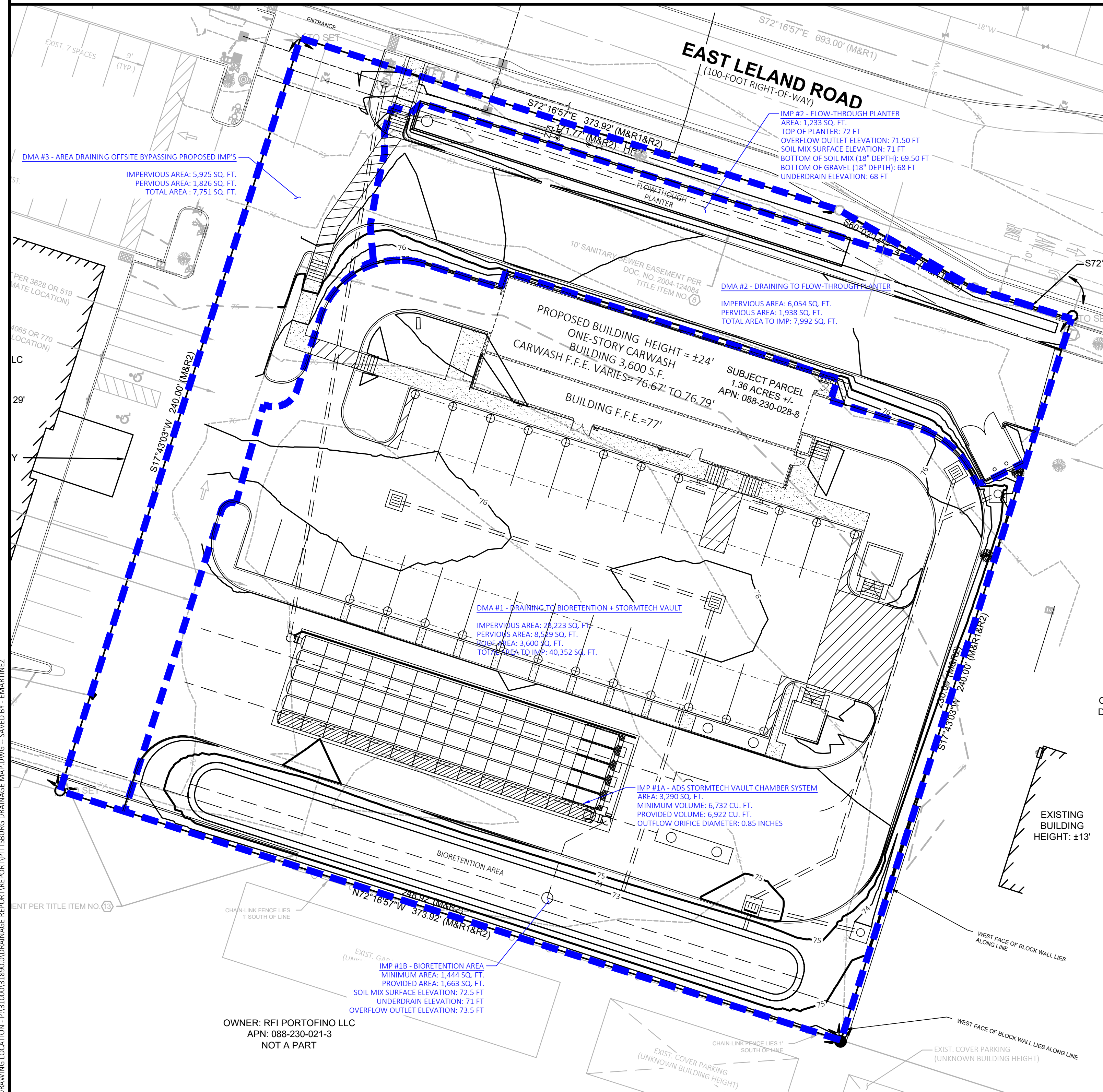
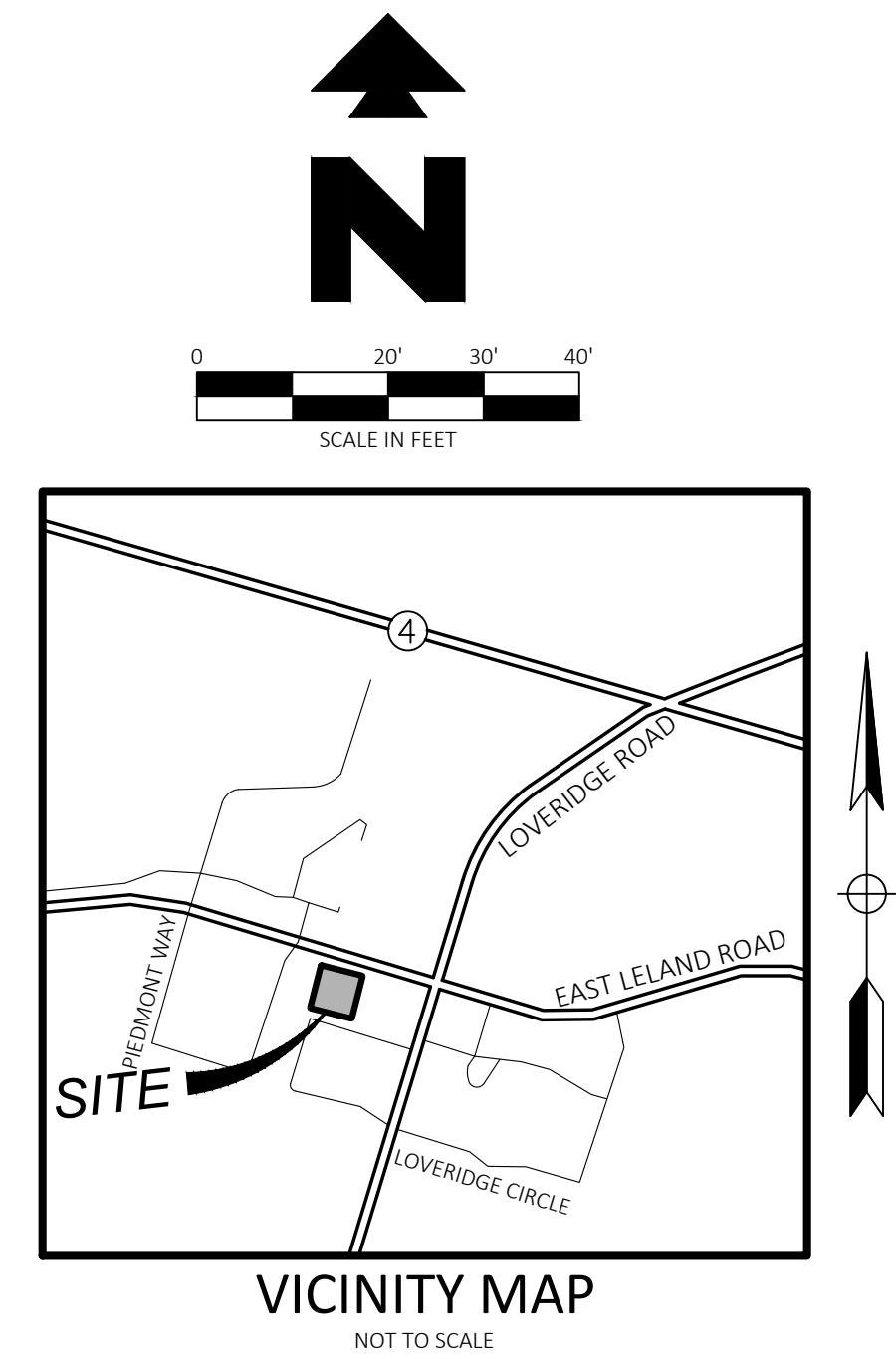
E LELAND ROAD ASSOCIATES LLC  
APN: 088-230-029-6  
NOT A PART  
EXISTING BUILDING HEIGHT: 29'

BASE CONTROL POINT #1  
N: 2192398.96'  
E: 6166096.93'  
EL: 75.24'  
NAIL SET

OWNER: GREEN DESERT OIL LLC  
APN: 088-230-024-7  
NOT A PART

OWNER: RFI PORTOFINO LLC  
APN: 088-230-021-3  
NOT A PART

THE ENTIRE SITE OF INTEREST HAS A TOTAL AREA OF APPROXIMATELY 59,200 SQ.FT. IT HAS BEEN DIVIDED INTO THREE STORMWATER DRAINAGE AREAS. EACH AREA DRAINS OUT OF THE SITE THROUGH DIFFERENT METHODS. STORMWATER FROM DMA #1 WILL BE COLLECTED AT THE SOUTH END OF THE SITE AND POOL AT A BIORETENTION AREA THAT WILL SERVE TO PRETREAT THE WATER WITH ENGINEERED SOIL. WATER WILL THEN FLOW OUT OF THE BIORETENTION AREA INTO AN UNDERGROUND ADS STORMTECH VAULT. THE VAULT WILL OUTFALL INTO A PROPOSED 12" STORM SEWER PIPE WHICH WILL CONNECT TO AN EXISTING STORM SEWER MANHOLE IN THE NORTHWESTERN PORTION OF THE PROPERTY. THIS WILL ALLOW THE WATER TO FLOW OUT OF THE VAULT AT A RATE OF 0.03 CFS. DMA #2 DRAINS TO WATER THROUGH A PROPOSED PLANTER LOCATED ON THE NORTH END OF THE SITE. STORMWATER COLLECTED IN THE PLANTER WILL BE PRETREATED WITH ENGINEERING SOIL BEFORE FLOWING OUT THROUGH A PROPOSED 12" STORM HDPE AND INTO THE EXISTING STORM SEWER MANHOLE AT A RATE OF 0.01 CFS. DMA #3 (SELF -TREATING AREA) IS PRIMARILY THE EXISTING DRIVEWAY THAT WILL CONTINUE TO DRAIN TO THE EXISTING GRATE INLET CHANNEL IN THE EXISTING DRIVEWAY.



Contra Costa IMP Calculator Summary Report

Page 1 of 1

**Project Name:** BlueWave Carwash  
**Project Type:** Treatment and Flow Control  
**Location:** Pittsburg  
**APN:**  
**Drainage Area:** 59200 sf  
**Mean Annual Precipitation:** 14 in

**I. Self-Treating Areas**

DMA Name	Area (sq ft)
On-Site flows bypassing proposed IMPs	7751

**IV. Areas Draining to IMPs**

**IMP Name:** Stormtech (Soil Type: C)  
**IMP Type:** Bioretention + Vault  
**Soil Type:** C

DMA Name	DMA Area (sq ft)	Post-Project Surface Type	DMA Runoff Factor	DMA Area x Runoff Factor	IMP Sizing			
					Factor	IMP Sizing Factor	Rain Adjust-ment Factor	Proposed Area or Volume
Impervious to Stormtech	28,223	Concrete or Asphalt	1.00	28,223				
Pervious to Stormtech	8,529	Landscape	0.50	4,265				
Roof to Stormtech	3,600	Conventional Roof	1.00	3,600				
<b>Total</b>	<b>36,088</b>				<b>Factor</b>	<b>IMP Sizing Factor</b>	<b>Rain Adjust-ment Factor</b>	<b>Proposed Area or Volume</b>
					0.040	1.000		1,444
								6,922
					<b>Volume</b>	<b>Factor</b>	<b>IMP Sizing Factor</b>	<b>Proposed Area or Volume</b>
					0.152	1.227		6,702
								6,922
								0.03
								0.85

**IMP Name:** Flow-Through Planter (Soil Type: C)  
**IMP Type:** Flow-Through Planter  
**Soil Type:** C

DMA Name	DMA Area (sq ft)	Post-Project Surface Type	DMA Runoff Factor	DMA Area x Runoff Factor	IMP Sizing			
					Factor	IMP Sizing Factor	Rain Adjust-ment Factor	Proposed Area or Volume
Impervious to Flow-Through	6,054	Concrete or Asphalt	1.00	6,054				
Pervious to Flow-Through	1,938	Landscape	0.50	969				
<b>Total</b>	<b>7,992</b>				<b>Factor</b>	<b>IMP Sizing Factor</b>	<b>Rain Adjust-ment Factor</b>	<b>Proposed Area or Volume</b>
					0.060	1.227		517
								1,233
					<b>Surface Volume</b>	<b>Factor</b>	<b>IMP Sizing Factor</b>	<b>Proposed Area or Volume</b>
					0.050	1.227		431
								617
					<b>Subsurface Volume</b>	<b>Factor</b>	<b>IMP Sizing Factor</b>	<b>Proposed Area or Volume</b>
					0.068	1.227		568
								740
								0.01
								0.49

file:///C:/Users/emartinez/AppData/Local/Temp/SummaryReport.htm

1/5/2022



CEI ENGINEERING ASSOCIATES, INC.  
 3030 LBJ FREEWAY, SUITE 100  
 DALLAS, TX 75234  
 PHONE: (972) 488-3737  
 FAX: (972) 488-6732



BLUEWAVE CARWASH EXPRESS  
 1160 EAST LELAND ROAD  
 PITTSBURG, CALIFORNIA

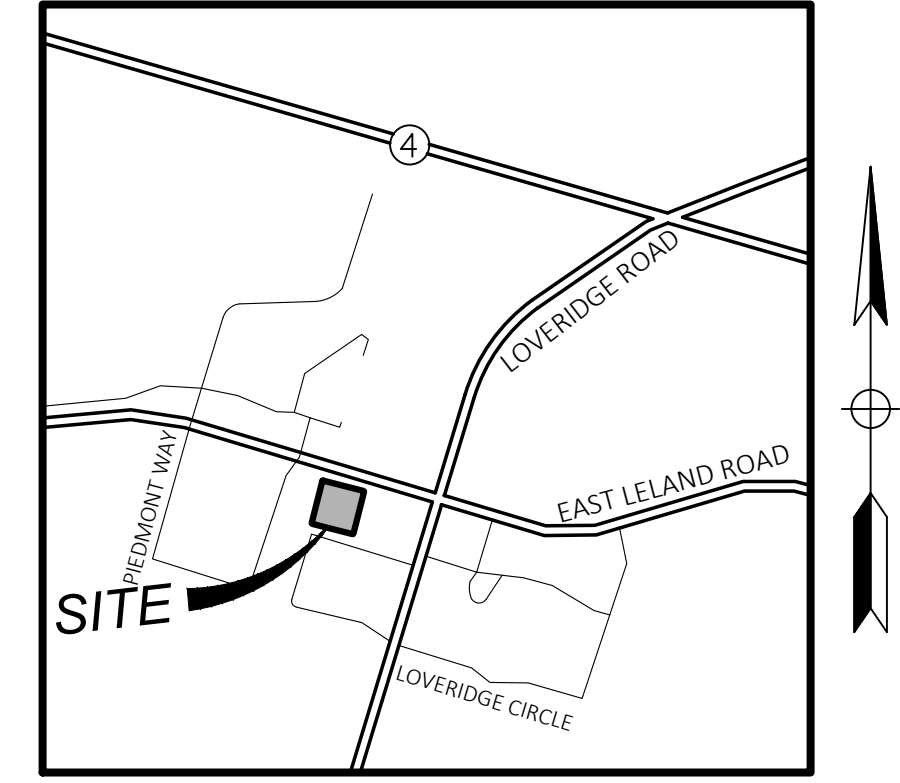
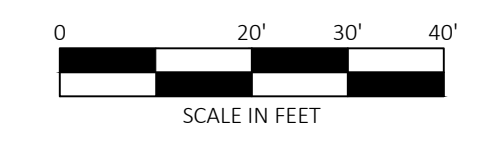
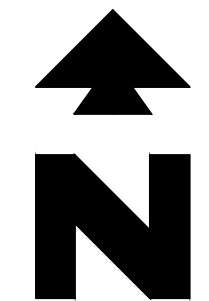
PRELIMINARY  
 NOT FOR  
 CONSTRUCTION

PROFESSIONAL OF RECORD	POR
PROJECT MANAGER	DAM
DESIGNER	CO
CEI PROJECT NUMBER	31890
DATE	6/17/2022
REVISION	REV-1

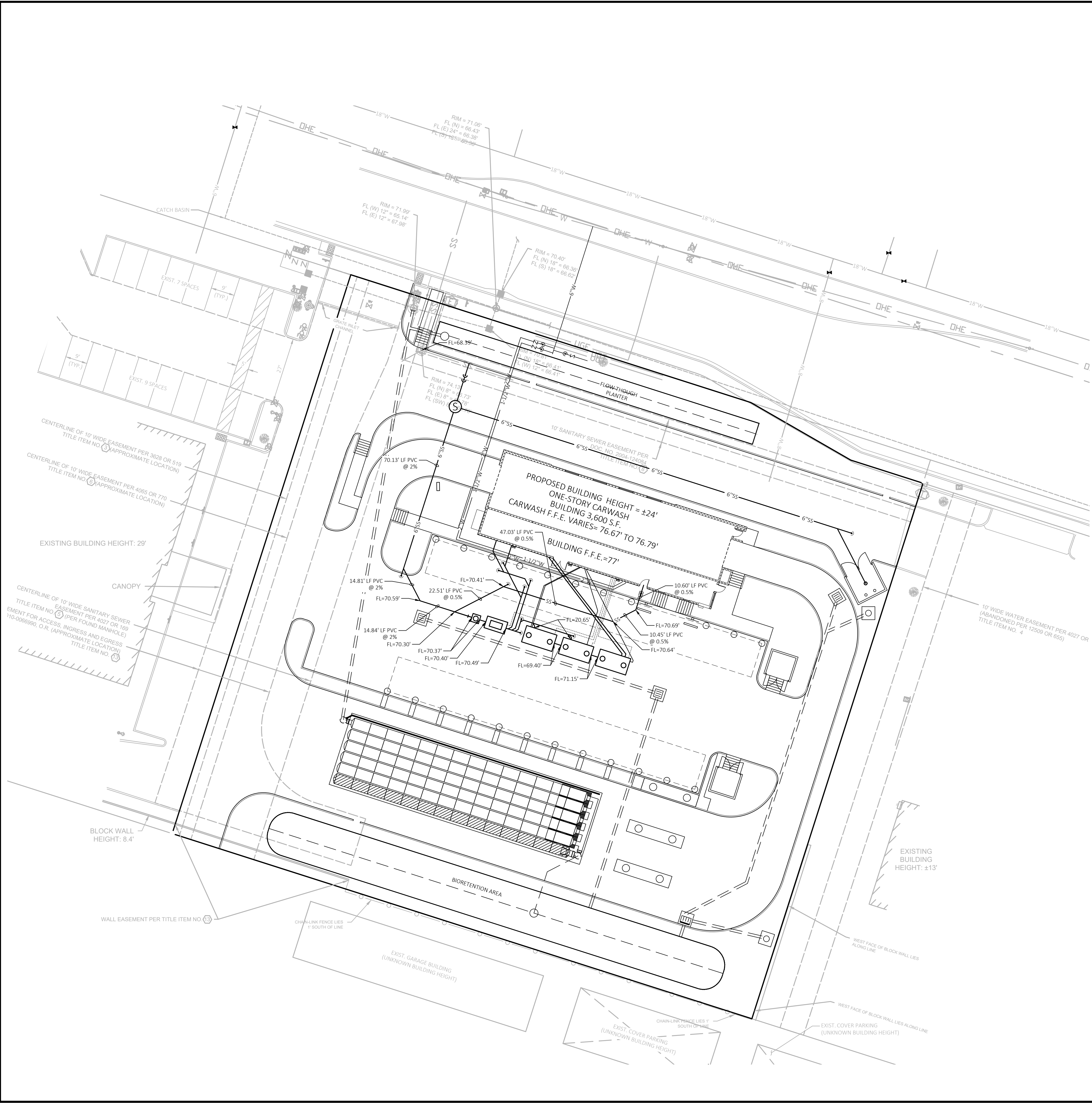
STORMWATER  
 CONTROL PLAN  
 EXHIBIT  
 SHEET TITLE  
 SHEET NUMBER

C2.1

DRAWING LOCATION: P:\31890\31890\DRAINAGE REPORT\REPORT\PITTSBURG DRAINAGE MAP.DWG - SAVED BY: EMARTINEZ



VICINITY MAP  
 NOT TO SCALE



EXISTING LEGEND

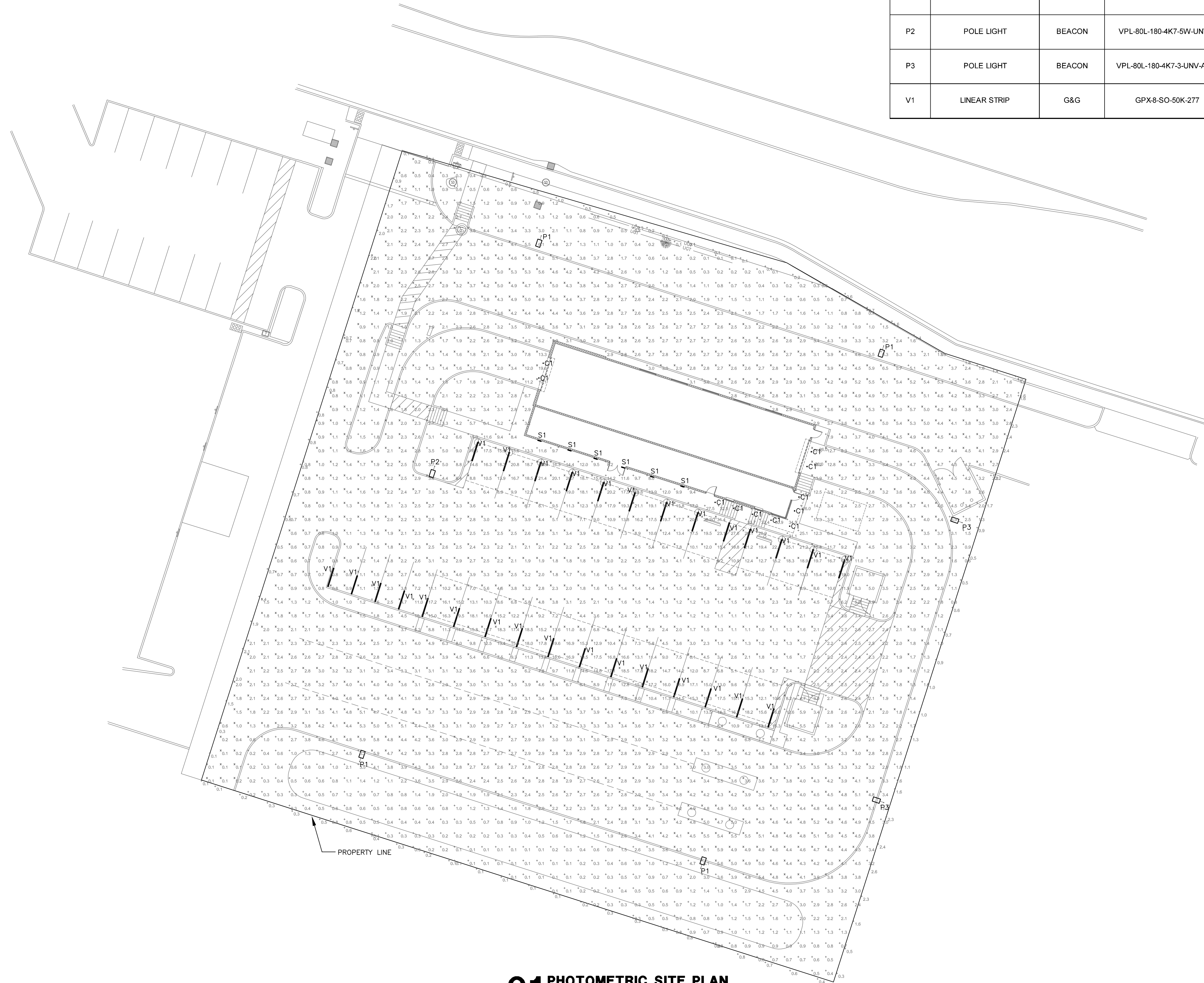
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●	CONTROL - IRON PIPE	☐	TELEPHONE - BOX
◆	CONTROL - NAIL SET	⊕	TELEPHONE - VAULT
◻	DOME	⊠	TRAFFIC SIGNAL - BOX
⊠	ELECTRIC - BOX	⊙	TREE - DECIDUOUS
⊠	ELECTRIC - RISER	⊙	UNKNOWN - BOX
⊠	ELECTRIC - VAULT	⊠	WATER - BOX
⊠	FIRE DEPARTMENT CONNECTION	⊠	WATER - METER
⊙	FIRE HYDRANT	⊠	WATER - VALVE
⊙	IRON PIPE FOUND	—	ROAD CENTERLINE
⊙	IRON PIPE SET	—	CHAIN LINK FENCE
⊙	IRRIGATION CONTROL VALVE	—	TELEPHONE LINE - UNDERGROUND
⊙	LIGHT POLE	—	ELECTRIC LINE - OVERHEAD
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⊙	POWER - POLE	—	WATER LINE - UNDERGROUND
⊙	ROOF DRAIN	—	SEWER LINE - UNDERGROUND
⊙	SANITARY SEWER - MANHOLE	—	STORM LINE - UNDERGROUND
⊙	SIGN	—	PROPERTY BOUNDARY LINE
⊙	SIGN - STOP	—	BUILDING OUTLINE
⊙	STORM DRAIN - GRATE	—	ADJACENT PROPERTY LINE
⊙	STORM DRAIN - MANHOLE	—	EXISTING EASEMENT LINE
⊙	STRIPING - ARROW RIGHT		

DRAWING LOCATION: P:\31890\31890\DRAWINGS\DESIGN\TITLEMENT PHASE\WORKING\31890.UPL (ENTITLEMENT PHASE) DWG - SAVED BY: EMARINIZ

CALCULATION SUMMARY				
CALCULATION ZONE	AVERAGE	MAXIMUM	MINIMUM	MAX/MIN
CANOPY	30.0	34.5	19.9	1.7:1
PROPERTY LINE	0.9	2.6	0.1	26.0:1
DRIVEWAYS	3.2	19.6	0.1	196.0:1
VACUUM AREA	7.9	31.4	0.8	39.3:1

ALL LEVELS ARE IN FOOTCANDLES

EXTERIOR LIGHT FIXTURE SCHEDULE									
FIXT. TAG	DESCRIPTION	MANUFACT.	CATALOG NUMBER	LAMP	VOLTAGE	WATTS	MOUNTING	LUMEN OUTPUT	
C1	EXTERIOR SCNCE	BROWNLEE	7704-BZ-B12LED-40K-ES-T	LED	UNV	12	SURFACE MOUNTED @ 11'-6"	1,400	
D1	RECESSED DOWNLIGHT	PRESCOLITE	LF6SL-DM1-6LFLS-20L-40K-8-CL	LED	UNV	23	RECESSED	1,800	
P1	POLE LIGHT	BEACON	VPL-80L-180-4K7-3-UNV-A	LED	UNV	180	POLE MOUNTED @ 25'-0"	22,700	
P2	POLE LIGHT	BEACON	VPL-80L-180-4K7-5W-UNV-A	LED	UNV	180	POLE MOUNTED @ 25'-0"	21,700	
P3	POLE LIGHT	BEACON	VPL-80L-180-4K7-3-UNV-A-BC	LED	UNV	180	POLE MOUNTED @ 25'-0"	21,700	
V1	LINEAR STRIP	G&G	GPX-8-SO-50K-277	LED	277V	36	SURFACE MOUNTED	4,800	



**01 PHOTOMETRIC SITE PLAN**  
1" = 20'-0"

**PRELIMINARY  
NOT FOR  
CONSTRUCTION**

STEVE WAKEMAN - ARCHITECT  
 2886 S COLORADO BLVD, SUITE 525  
 DENVER, CO 80222  
 (303) 962-9164

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**BLUEWAVE EXPRESS CAR WASH**  
 1160 EAST LELAND ROAD  
 PITTSBURG, CA  
**CSHOA**

**SCHEMATIC DESIGN**

PROJECT	DATE
20228.000	2-10-2021
DRAWN	CHECKED
BAW	ATF

REVISED

SHEET TITLE  
**ELECTRICAL SITE  
 PHOTOMETRIC  
 PLAN**

SHEET

**ES1.0**  
 ORIGINAL SHEET SIZE  
 24" x 36"

THIS SHEET IS PART OF THE CONSTRUCTION DOCUMENTS, OTHER SHEETS INCLUDING SPECIFICATIONS APPLY. THAT SHOWN HEREON IS SCHEMATIC IN NATURE AND NOT TO BE USED AS A SHOP DRAWING; THEREFORE, INCLUDE ALL MODIFICATIONS REQUIRED TO CONFORM TO SITE CONDITIONS AND THE EQUIPMENT AND MATERIAL USED. VERIFY LOCATIONS AND DIMENSIONS OF ALL ARCHITECTURAL AND STRUCTURAL ELEMENTS AS SHOWN ON THEIR RESPECTIVE DOCUMENTS. THESE ELEMENTS ARE SHOWN FOR REFERENCE AND SHALL BE VERIFIED PRIOR TO CONSTRUCTION AND THE ENGINEER ASSUMES NO LIABILITY FOR THE ACCURACY OF THESE ELEMENTS. NO DESIGN RESPONSIBILITY IS ASSUMED FOR ANY PORTION OF THE WORK THAT THE PROFESSIONAL ENGINEER HAS NOT SIGNED AND SEALED PER STATE/PROVINCE REQUIREMENTS.

**Dialectic**

Dialectic Group, Inc. T 816-997-9601  
 310 W 20th Street, Suite 200 F 816-997-9602  
 Kansas City, MO 64108 DialecticEng.com  
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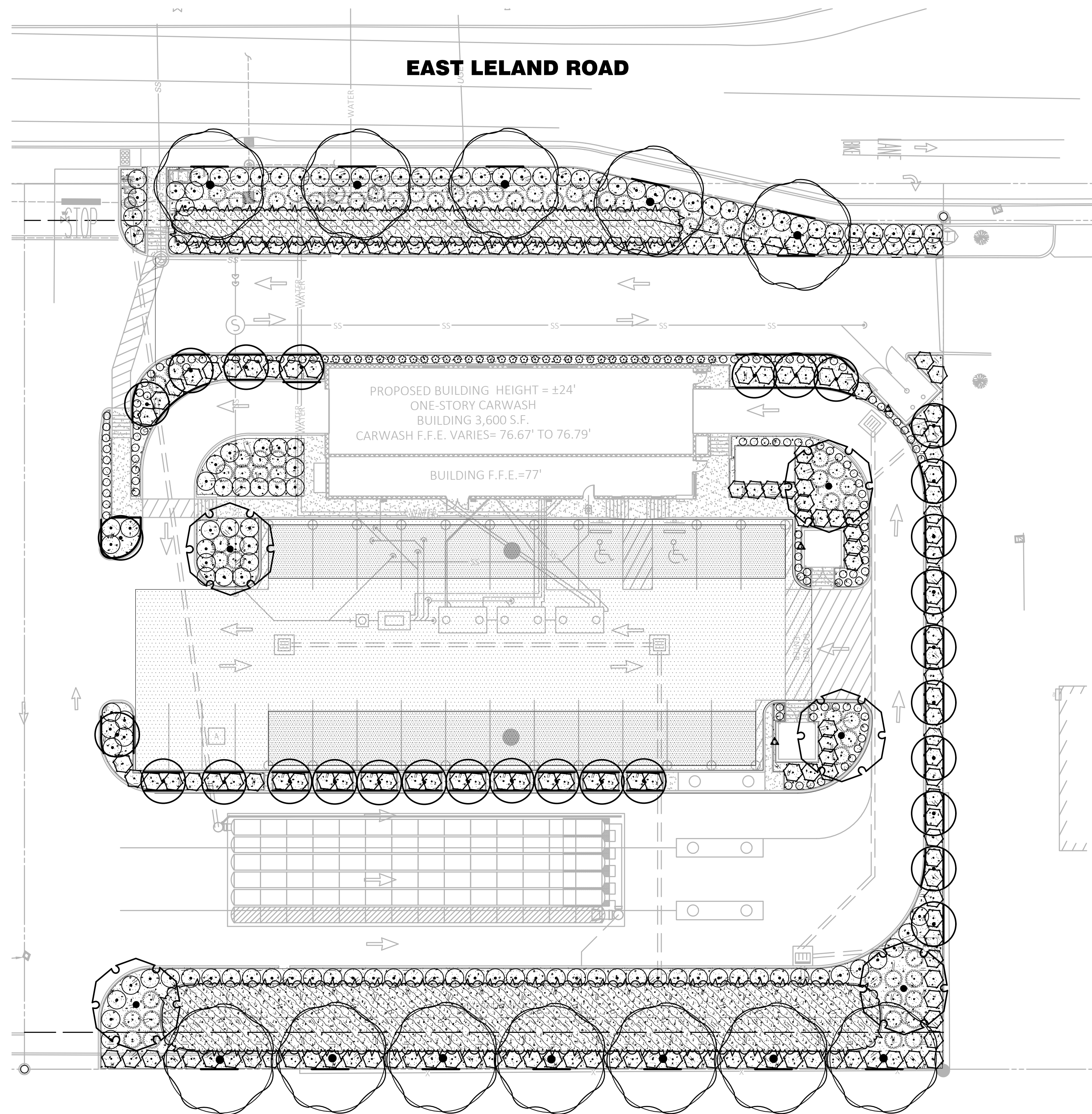
project:

**BLUE WAVE  
CAR WASH**

**1160 E. LELAND  
RD.  
PITTSBURG, CA**

client:

**BLUE WAVE**



**REFERENCE NOTES SCHEDULE**

SYMBOL	SITE FURNISHINGS DESCRIPTION	QTY
	ROOT BARRIER - 24" DEPTH, 10' CENTERED ON TREE TRUNK	791 LF

SYMBOL	PRELIMINARY DESIGN DESCRIPTION	QTY
	LANDSCAPE AREA	15,538 SF
	PARKING LOT	11,475 SF
	CARPORT	3,967 SF

SYMBOL	MULCH DESCRIPTION	QTY
	RECYCLED ORGANIC MULCH-3"	12,606 CY

**TOTAL LANDSCAPE**

LANDSCAPE AREA:	15538
TOTAL LOT AREA:	59241
% LANDSCAPE:	26.23

**PLANT SCHEDULE**

TREES	BOTANICAL / COMMON NAME	CONT.	WATER USE	QTY	REMARKS
-------	-------------------------	-------	-----------	-----	---------

	CERCIS OCCIDENTALIS WESTERN REDBUD	15 GAL	L	30	SMALL DECIDUOUS TREE
--	---------------------------------------	--------	---	----	----------------------

	GLEDISIA TRIACANTHOS INERMIS 'SHADEMASTER' SHADEMASTER HONEY LOCUST	15 GAL	L	12	LARGE DECIDUOUS SHADE TREE
--	--	--------	---	----	----------------------------

	QUERCUS AGRIFOLIA COAST LIVE OAK	15 GAL	L	5	LARGE EVERGREEN TREE
--	-------------------------------------	--------	---	---	----------------------

SHRUBS	BOTANICAL / COMMON NAME	SIZE	WATER USE	QTY	REMARKS
--------	-------------------------	------	-----------	-----	---------

	CLEMATIS LASIANTHA PIPESTEM CLEMATIS	5 GAL	L	3	VINE
--	---	-------	---	---	------

	MULLENBERGIA DUBIA PINE MULLY	1 GAL	L	64	GRASS
--	----------------------------------	-------	---	----	-------

	NEPETA X FAASSENII 'BLUE WONDER' BLUE WONDER CATMINT	1 GAL	L	111	GROUND COVER
--	---	-------	---	-----	--------------

	OLEA EUROPAEA 'LITTLE ALLIE' TM LITTLE ALLIE OLIVE	5 GAL	L	179	HEDGE
--	---	-------	---	-----	-------

	ROSMARINUS OFFICINALIS 'BLUE SPIRES' ROSEMARY	1 GAL	L	36	HEDGE
--	--	-------	---	----	-------

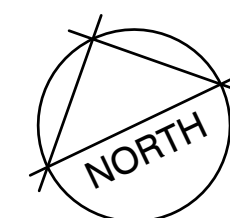
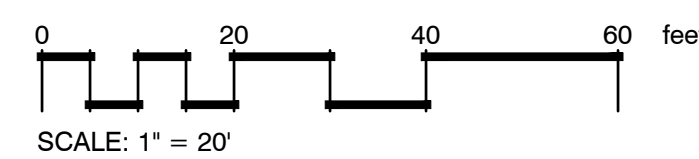
	ROSMARINUS OFFICINALIS 'HUNTINGTON CARPET' HUNTINGTON CARPET ROSEMARY	1 GAL	L	121	GROUND COVER
--	--	-------	---	-----	--------------

SHRUB AREAS	BOTANICAL / COMMON NAME	CONT.	WATER USE	SPACING	QTY	REMARKS
-------------	-------------------------	-------	-----------	---------	-----	---------

	JUNCUS PATENS CALIFORNIA GRAY RUSH	1 GAL	L	24" o.c.	1,154	UN IRRIGATED SWALE PLANTS
--	---------------------------------------	-------	---	----------	-------	---------------------------

**PARKING LOT SHADE CALCULATIONS**

SPECIES	MATURE CANOPY RADIUS (ft)	TOTAL CANOPY AREA (sf)	QUANTITY BY SHADE COVERAGE				TOTAL SHADE (sf)
			25%	50%	75%	100%	
<i>Cercis occidentalis</i>	7.5	177		12			1060
<i>Quercus agrifolia</i>	15	707	2	1			707
					Tree area shade		1766
					Carport area shade		3967
					Total area parking lot		11475
					Percent shade		50.0%



scale: 1"=20'-0"

sheet title:

**PLANTING  
PLAN**

sheet no.

**LA-1**

project no. 20-10-008

I HAVE COMPLIED WITH THE CRITERIA OF THE MODEL WATER EFFICIENT LANDSCAPE ORDINANCE AND APPLIED THEM FOR THE EFFICIENT USE OF WATER IN THE LANDSCAPE DESIGN.

J. PATRICK BOYD, LLA No. 4682 DATE: 05/26/2022

project:

# BLUE WAVE CAR WASH

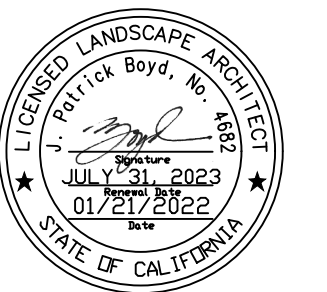
1160 E. LELAND  
RD.  
PITTSBURG, CA

client:

# BLUE WAVE

designlab 252

P.O. Box 27616 Fresno, CA 93729  
Studio: 559.472.9966 Fax: 559.472.9969



drawn by: **KJ** checked by: **PB**

submittal:	date:
No. 1	01/26/2020
No. 2	05/26/2022
No. 3	06/24/2022
No. 4	06/30/2022
No. 5	07/08/2022

scale: 1"=20'-0"

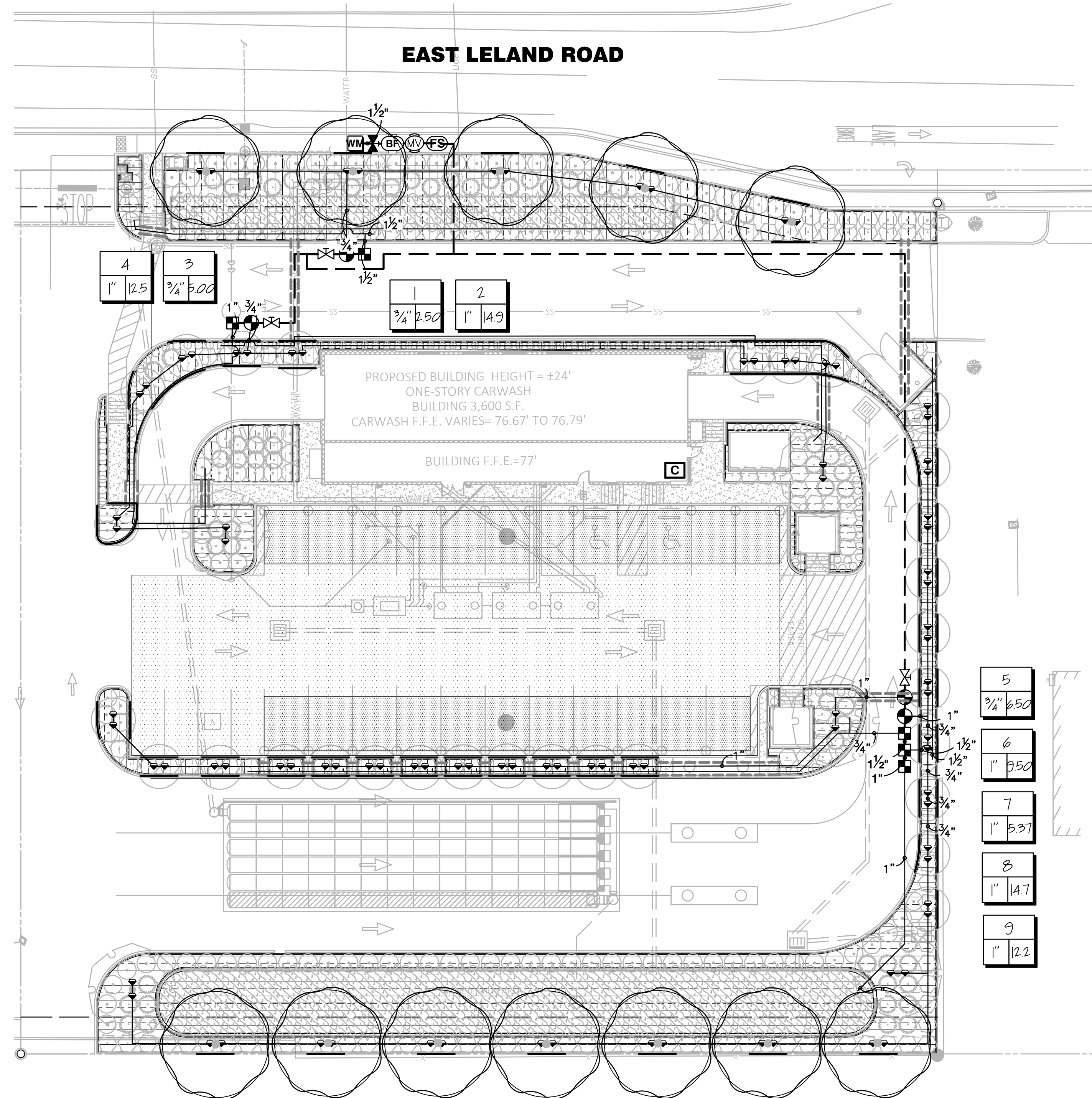
sheet title:

# IRRIGATION PLAN

sheet no.

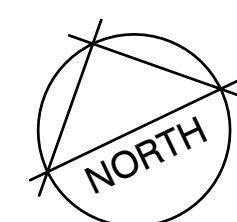
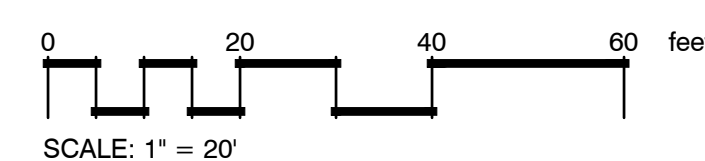
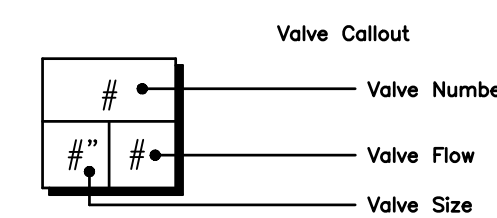
# LA-2

project no. 20-10-008



## IRRIGATION SCHEDULE

SYMBOL	MANUFACTURER/MODEL/DESCRIPTION	QTY	ARC	PSI	GPM	RADIUS
◆	TORO 5105-FB-PCIN RW5 PRESSURE-COMPENSATING FLOOD BUBBLER NOZZLE ON 5105 FIXED RISER IN 3/8" ROOT WATERING TUBE. 0.25GPM, 0.5GPM, 1.0GPM, AND 2.0GPM.	94	360	20	0.25	3'
■	MANUFACTURER/MODEL/DESCRIPTION	QTY				
■	DRIP ZONE VALVE KIT-TORO DZK-700 1" DRIP CONTROL VALVE KIT WITH 1" IRRITROL 700 ULTRAFLOW INLINE VALVE, TORO Y-FILTER, AND MEDIUM-FLOW PRESSURE REGULATOR AND FITTINGS. 0.10GPM-30.0GPM.	5				
[Hatched Box]	AREA TO RECEIVE DRIFLINE TORO T-PCB-1853-18 DRIF-IN PRESSURE COMPENSATING LANDSCAPE DRIFLINE 0.59 GPM EMITTERS AT 18" O.C. DRIFLINE LATERALS SPACED AT 24" APART, WITH EMITTERS OFFSET FOR TRIANGULAR PATTERN.	9,992 L.F.				
●	MANUFACTURER/MODEL/DESCRIPTION	QTY				
●	REMOTE CONTROL VALVE-IRRITROL 100 1" ELECTRIC REMOTE CONTROL VALVE	1				
●	REMOTE CONTROL VALVE-IRRITROL 100 3/4" ELECTRIC REMOTE CONTROL VALVE	3				
⊗	BALL VALVE PVC WHITE BALL VALVE FOR SCH 40 AND SCH 80 PIPE, SOLVENT SLIP ENDS WITH "T" HANDLE, SAME SIZE AS MAINLINE. 1/2" TO 4".	3				
⊗	GATE VALVE CLASS 125 BRONZE GATE SHUT OFF VALVE WITH WHEEL HANDLE, SAME SIZE AS MAINLINE PIPE DIAMETER AT VALVE LOCATION. SIZE RANGE - 1/4" - 3"	1				
Ⓜ	IRRITROL 700-15 1-1/2" 1-1/2" ULTRAFLOW ELECTRIC VALVE, INTERNAL BLEED FLOW CONTROL 15-180 GPM FLOW RANGE 5-1/2" H X 4-3/8" W X 6-1/4" D.	1				
Ⓛ	BACKFLOW PREVENTER-FEDCO B25Y 1" REDUCED PRESSURE BACKFLOW PREVENTER	1				
Ⓛ	CONTROLLER-IRRITROL MC-12-E WITH CLIMATE LOGIC 12- STATION, COMMERCIAL-GRADE, OUTDOOR/INDOOR CONTROLLER EQUIPPED IN A RUGGED, LOCKABLE, VANDAL-PROOF, WEATHER RESISTANT STEEL CABINET. COMES WALL MOUNTED, BUT FITS PEDESTAL P-2B (NOT INCLUDED).	1				
Ⓛ	FLOW SENSOR-TORO TFS 1" 1/2", 3/4", 1", 1-1/2", 2", 3", AND 4" PLASTIC TEE SIZES. EFFECTIVE FLOW MONITORING, EVEN IN FLOWS LESS THAN 5 GPM. COMPATIBLE WITH TORO AND COMPETITIVE CONTROLLERS. IMPELLER-BASED, PVC DESIGN.	1				
Ⓛ	WATER METER 1" SEE CIVIL PLANS FOR PLACEMENT ASSUMED 50 PSI - STATIC PRESSURE	1				
---	IRRIGATION LATERAL LINE: PVC SCHEDULE 40 3/4"	1,727 L.F.				
---	IRRIGATION LATERAL LINE: PVC SCHEDULE 40 1"	1,620 L.F.				
---	IRRIGATION LATERAL LINE: PVC SCHEDULE 40 1 1/2"	181 L.F.				
---	IRRIGATION MAINLINE: PVC SCHEDULE 40 1"	4.4 L.F.				
---	IRRIGATION MAINLINE: PVC SCHEDULE 40 1 1/2"	416.2 L.F.				
---	PIPE SLEEVE: PVC SCHEDULE 40	184.0 L.F.				



I HAVE COMPLIED WITH THE CRITERIA OF THE MODEL WATER  
EFFICIENT LANDSCAPE ORDINANCE AND APPLIED THEM FOR THE  
EFFICIENT USE OF WATER IN THE LANDSCAPE DESIGN.

05/26/2022

J. PATRICK BOYD, LLA No. 4682

DATE:

project:

## BLUE WAVE CAR WASH

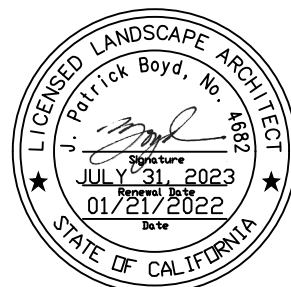
1160 E. LELAND  
RD.  
PITTSBURG, CA

client:

## BLUE WAVE

des:gnlab 252

P.O. Box 27616 Fresno, CA 93729  
Studio: 559.472.9966 Fax: 559.472.9969



drawn by: checked by:  
**KJ PB**

submittal:	date:
<b>No. 1</b>	<b>01/26/2020</b>
<b>No. 2</b>	<b>05/26/2022</b>
<b>No. 3</b>	<b>06/24/2022</b>
<b>No. 4</b>	<b>06/30/2022</b>
<b>No. 5</b>	<b>07/08/2022</b>

scale: 1"=20'-0"

sheet title:

## LANDSCAPE NOTES

sheet no.

## LA-3

project no. 20-10-008

### GENERAL NOTES

- EXISTING UTILITIES - INFORMATION ON THE DRAWINGS RELATING TO EXISTING UTILITY LINES AND SERVICES IS FROM THE BEST SOURCES AVAILABLE. ALL SUCH INFORMATION IS FURNISHED FOR INFORMATION ONLY AND IS NOT GUARANTEED.
  - THE CONTRACTOR SHALL BE RESPONSIBLE FOR MAKING HIMSELF FAMILIAR WITH ALL UNDERGROUND UTILITIES, PIPES AND STRUCTURES. CONTRACTOR SHALL TAKE SOLE RESPONSIBILITY FOR AN COST INCURRED DUE TO DAMAGE OF SAID UTILITIES.
  - CALL UTILITY LOCATING SERVICE FOR PRECISE UTILITY LOCATIONS BEFORE BEGINNING ANY WORK. UNDERGROUND SERVICE ALERT. (800) 227-2600.
- EXISTING CONDITIONS:
  - PROTECTION OF EXISTING TREES: CONSTRUCT FOUR (4) FOOT HIGH ORANGE CONSTRUCTION FENCE OR OTHER APPROVED PROTECTIVE FENCING AROUND THE TREE. CONTACT THE OWNER/OWNER'S REPRESENTATIVE FOR LOCATION OF THE FENCE IF NOT SHOWN ON THE PLAN. DO NOT ENTER, OR PLACE OBJECTS WITHIN THE FENCED AREA. PLACE A THREE (3) INCH LAYER OF WOOD MULCH WITHIN THE FENCED AREA BUT KEEP MULCH OFF OF TRUNK. CONTRACTOR SHALL MAINTAIN FENCED AREA CLEAR OF OBJECTS AT ALL TIMES.
  - WHEN IT IS NECESSARY TO EXCAVATE OR TRENCH ADJACENT TO EXISTING TREES, THE CONTRACTOR SHALL USE ALL POSSIBLE CARE TO AVOID INJURY TO TREES AND TREE ROOTS. EXCAVATION IN AREAS WHERE TWO (2) INCH AND LARGER ROOTS OCCUR SHALL BE DONE BY HAND. ALL ROOTS TWO (2) INCH AND LARGER IN DIAMETER EXCEPT DIRECTLY IN THE PATH OF PIPE OR CONDUIT, SHALL BE TUNNELED UNDER AND SHALL BE HEAVILY WRAPPED WITH BURLAP TO PREVENT SCARRING OR EXCESSIVE DRYING. WHERE A TRENCHING MACHINE IS RUN CLOSEST TO TREES HAVING ROOTS SMALLER THAN TWO (2) INCHES IN DIAMETER, THE WALL OF THE TRENCH ADJACENT TO THE TREE SHALL BE HAND TRIMMED, MAKING CLEAN CUTS THROUGH. ROOTS ONE (1) AND LARGER IN DIAMETER SHALL BE PAINTED WITH TWO COATS OF TREE SEAL, OR EQUAL. TRENCHES ADJACENT TO TREE SHALL BE CLOSED WITHIN TWENTY-FOUR (24) HOURS, AND WHERE THIS IS NOT POSSIBLE, THE SIDE OF THE TRENCH ADJACENT TO THE TREE SHALL BE KEPT SHADED WITH BURLAP OR CANVAS.
  - PRIOR TO BID, CONTRACTOR SHALL VERIFY EXISTING IRRIGATION CONTROLLER, WATER METER AND BACKFLOW PREVENTER LOCATIONS. CONTRACTOR SHALL VERIFY EXISTING IRRIGATION STATIONS AT ADJACENT WORK AREA AND DETERMINE VALVES CONTROLLING HEADS INDICATED FOR CONNECTION TO EXISTING SYSTEM. CONTRACTOR SHALL VERIFY VALVE SIZE AND EXISTING GPM FLOW PRIOR TO ADDING NEW HEADS. ALSO, SPACING AND COVERAGE SHALL BE VERIFIED AND NECESSARY PROVISION IN BID MADE FOR REQUIRED ADJUSTMENTS AND MODIFICATIONS TO ACHIEVE PROPER COVERAGE.
- CONTRACTOR SHALL FURNISH A LIST AND CUT SHEETS OF THE MATERIALS PROPOSED FOR THE PROJECT TO THE OWNER/OWNER'S REPRESENTATIVE FOR APPROVAL. CONSTRUCTION SHALL NOT BEGIN UNTIL MATERIALS ARE APPROVED.
- INSPECTION SCHEDULE
  - THE FOLLOWING INSPECTIONS SHALL BE PERFORMED BY THE OWNER/OWNER'S REPRESENTATIVE DURING CONSTRUCTION. OWNER/OWNER'S REPRESENTATIVE SHALL CONTACT LANDSCAPE ARCHITECT FOR INSPECTION REQUIREMENTS, IF INSPECTIONS REQUIRE THE PRESENCE OF THE LANDSCAPE ARCHITECT. LANDSCAPE ARCHITECT MUST BE NOTIFIED A MINIMUM OF 4 DAYS PRIOR TO SCHEDULED INSPECTION DATE.
    - PRESSURE TESTING OF IRRIGATION MAINLINE-OPEN TRENCH.
    - FINAL IRRIGATION INSPECTION-CONFIRMATION OF IRRIGATION EQUIPMENT PLACEMENT AND FULL IRRIGATION COVERAGE.
    - INSPECTION OF PLANT MATERIALS ON SITE BEFORE INSTALLATION.
    - FINAL CONSTRUCTION INSPECTION PRIOR TO COMMENCEMENT OF WARRANTY PERIOD.
    - FINAL PROJECT ACCEPTANCE AT THE END OF WARRANTY PERIOD.
- CLEAN UP ON A DAILY BASIS PER OWNER/OWNER'S REPRESENTATIVE'S APPROVAL.

### MODEL WATER EFFICIENT LANDSCAPE ORDINANCE REQUIREMENTS:

- SEE CIVIL PLANS FOR GRADING PLAN.
- A SOILS REPORT IS REQUIRED. SOIL TESTING SHALL OCCUR AFTER ALL SOIL HAS BEEN IMPORTED TO THE SITE, BUT PRIOR TO SOIL PREPARATION. THE CONTRACTOR SHALL OBTAIN A SOILS TEST FOR AGRICULTURAL SUITABILITY AND FERTILITY PREPARED BY A CALIFORNIA ASSOCIATION OF AGRICULTURAL LABORATORIES MEMBER. REPORT SHALL CONTAIN RECOMMENDATIONS FOR SOIL PREPARATION AND BACKFILL MIX. THIS REPORT SHALL BE FURNISHED TO THE OWNER AND OWNER'S REPRESENTATIVE FOR REVIEW PRIOR TO IMPLEMENTATION.
- PRIOR TO PLANTING OF ANY MATERIALS, COMPACTED SOILS SHALL BE TRANSFORMED TO A FRIABLE CONDITION. ON ENGINEERED SLOPES, ONLY AMENDED PLANTING HOLES NEED MEET THIS REQUIREMENT.
  - SOIL AMENDMENT SHALL BE INCORPORATED ACCORDING TO THE RECOMMENDATIONS OF THE SOILS REPORT AND WHAT IS APPROPRIATE FOR THE PLANTS SELECTED.
  - FOR LANDSCAPE INSTALLATIONS, COMPOST AT A RATE OF A MINIMUM OF FOUR (4) CUBIC YARDS PER 1,000 SQUARE FEET OF PERMEABLE AREA SHALL BE INCORPORATED TO A DEPTH OF 6" INTO THE SOILS. SOILS WITH GREATER THAN 6% ORGANIC MATTER IN THE TOP SIX (6) INCHES ARE EXEMPT FROM ADDING COMPOST AND TILLING.
- A MINIMUM OF A THREE (3) INCH LAYER OF MULCH SHALL BE APPLIED ON ALL EXPOSED SOIL SURFACES OF PLANTING AREAS EXCEPT IN TURF AREAS, CREEPING OR ROOTING GROUND COVERS, OR DIRECT SEEDING APPLICATIONS WHERE MULCH IS CONTRAINDICATED. UP TO 5% OF THE LANDSCAPE MAY BE LEFT WITHOUT MULCH FOR INSECT HABITAT, AND SUCH ARE MUST BE NOTED ON THE PLANS.

### IRRIGATION NOTES

- THE IRRIGATION SYSTEM INDICATED ON THE PLANS IS DIAGRAMMATIC. ALL EQUIPMENT SHOWN IN PAVED AREAS IS FOR GRAPHIC DESIGN CLARIFICATION PURPOSES ONLY. EQUIPMENT SHALL BE LOCATED IN ADJACENT PLANTER. AVOID ANY CONFLICTS BETWEEN THE SPRINKLER SYSTEM, PLANTING OR ARCHITECTURAL FEATURES.
- IT IS THE RESPONSIBILITY OF THE IRRIGATION CONTRACTOR TO FAMILIARIZE HIMSELF WITH ALL GRADE DIFFERENCES, WALL LOCATIONS, ETC., THAT WILL AFFECT HIS WORK. IRRIGATION CONTRACTOR SHALL NOT INSTALL THE SYSTEM AS INDICATED ON THE DRAWINGS WHEN IT IS OBVIOUS THAT OBSTRUCTION, GRADE DIFFERENCES OR AREA DIMENSION DIFFERENCES EXIST. NOTIFY THE OWNER/OWNER'S REPRESENTATIVE OF ANY DISCREPANCIES. IN THE EVENT THAT NOTIFICATION IS NOT MADE, THE IRRIGATION CONTRACTOR SHALL ASSUME ALL RESPONSIBILITY FOR NECESSARY CHANGES AND WORK.
- IT IS THE RESPONSIBILITY OF THE IRRIGATION CONTRACTOR TO COORDINATE ALL WORK WITH THE GENERAL CONTRACTOR AND OTHERS FOR LOCATING PIPE AND WIRE SLEEVES THROUGH WALLS, STRUCTURES, UNDER ROADS PAVING, ETC.
- THE IRRIGATION DESIGN IS BASED ON A MINIMUM OPERATING PRESSURE SHOWN FOR EACH POINT OF CONNECTION AND MAXIMUM GPM (GALLONS PER MINUTE) DEMAND SPECIFIED.
- MAINLINE FEEDER BETWEEN POINT OF CONNECTION, METER AND BACKFLOW PREVENTER TO BE OF MATERIAL REQUIRED BY LOCAL WATER DISTRICT.
- WHERE APPLICABLE, FINAL LOCATION OF THE BACKFLOW PREVENTER AND IRRIGATION CONTROLLER SHALL BE APPROVED BY THE CITY'S REPRESENTATIVE AND/OR OWNER'S REPRESENTATIVE.
- A 120-VOLT ELECTRICAL POWER OUTLET AT EACH AUTOMATIC CONTROLLER LOCATION SHALL BE PROVIDED BY THE GENERAL CONTRACTOR. IT SHALL BE THE RESPONSIBILITY OF THE IRRIGATION CONTRACTOR TO COORDINATE NECESSARY POWER SOURCES AND TO MAKE THE FINAL LOOP UP FROM THE ELECTRICAL OUTLET TO THE AUTOMATIC CONTROLLER(S), INCLUDING PROPER GROUNDING AS REQUIRED ACCORDING TO THE MANUFACTURER'S RECOMMENDATIONS.
- IN ADDITION TO THE SLEEVES SHOWN ON THE PLAN, THE IRRIGATION CONTRACTOR SHALL BE RESPONSIBLE FOR THE INSTALLATION OF ADDITIONAL SLEEVES OF SUFFICIENT SIZE UNDER ALL PAVED AREAS UPON APPROVAL OF THE OWNER'S REPRESENTATIVE, IF REQUIRED TO OPERATE THE SYSTEM. SLEEVES SHALL BE 2 X DIAMETER OF THE PIPE.
- CONCRETE THRUST BLOCKS SHALL BE PROVIDED ON ALL MAINLINE PIPING. THEY ARE TO BE LOCATED AT ALL ABRUPT CHANGES TO HORIZONTAL ALIGNMENT, REDUCTION IN PIPE SIZES, END OF LINE AND IN-LINE VALVES TO ABSORB ANY AXIAL THRUST OF THE PIPE. THRUST BLOCKS MUST BE FORMED AGAINST UNDISTURBED EARTH.
- INSTALL VALVE BOXES 4" FROM AND PERPENDICULAR TO PATH EDGE, CURB, LAWN, BUILDINGS OR HARDSCAPE. AT MULTIPLE VALVE BOX GROUPS, EACH BOX SHALL BE AN EQUAL DISTANCE FROM THE WALK, CURB, LAWN, ETC. AND EACH BOX SHALL BE 6" APART. SHORT SIDE OF VALVE BOX SHALL BE PARALLEL TO WALK, CURBS, LAWN, ETC.
- SPlicing OF 24-VOLT WIRES WILL NOT BE PERMITTED EXCEPT IN VALVE BOXES. LEAVE 24" COIL OF EXCESS WIRE AT EACH SPlice. LABEL ALL WIRES WITH WATERPROOF MARKERS AT ALL SPlices.
- IRRIGATION CONTRACTOR SHALL FLUSH AND ADJUST ALL SPRINKLER HEADS FOR OPTIMUM PERFORMANCE, WATER CONSERVATION AND PREVENTION OF OVERSPRAY ONTO WALKS AND ROADWAYS AS MUCH AS POSSIBLE. THIS SHALL INCLUDE SELECTING THE BEST DEGREE OF ARC TO FIT THE EXISTING SITE CONDITION AND TO THROTTLE THE FLOW CONTROL AT EACH VALVE TO OBTAIN THE OPTIMUM OPERATING PRESSURE FOR EACH SYSTEM.

### PROJECT WARRANTY PERIOD

- PROJECT WARRANTY PERIOD SHALL BEGIN AFTER PROJECT IS COMPLETE AND APPROVED DURING THE FINAL CONSTRUCTION INSPECTION. PROJECT WARRANTY PERIOD SHALL BE 30 DAYS.
- DURING PROJECT WARRANTY PERIOD, THE PROJECT SHALL BE INSPECTED WEEKLY AND THE FOLLOWING SHALL BE REQUIRED:
  - KEEP PLANT BASINS WELL FORMED.
  - PLANTS THAT SHOW SIGNS OF FAILURE TO GROW AT ANY TIME OR WHICH ARE SO INJURED OR DAMAGED AS TO RENDER THEM UNSUITABLE FOR THE PURPOSE INTENDED, MUST BE REMOVED, AND REPLANTED. REPLACEMENT PLANTING MUST COMPLY WITH THE ORIGINAL PLANTING SPECIFICATIONS, SIZES AND SPACING DESCRIBED FOR THE PLANTS BEING REPLACED.
  - STAKE, TIE AND TRAIN VINES ADJACENT TO WALLS AND FENCES.
  - CONTROL RODENTS AND INSECTS AS NEEDED.
  - CONTROL WEEDS AS NEEDED. CONTROL OF WEEDS SHALL BE REQUIRED BEFORE THE WEEDS REACH THE SEED STAGE OF GROWTH OR EXCEED 4 INCHES IN LENGTH, WHICHEVER OCCURS FIRST.
    - CONTROL WEEDS BY HAND-PULLING WITHIN AN AREA 2 FEET IN DIAMETER CENTERED AT EACH PLANT LOCATION. ALL OTHER LOCATIONS MAY BE CONTROLLED BY HERBICIDE.
    - REMOVE ALL TRASH AND DEBRIS.
    - IRRIGATE USING IRRIGATION CONTROLLER SET ON ET SCHEDULE.
- PERFORM FINAL INSPECTION OF THE PROJECT WARRANTY PERIOD IN THE PRESENCE OF THE OWNER/OWNER'S REPRESENTATIVE 20 TO 30 DAYS BEFORE THE CONTRACT ENDS. FINAL CONTRACT APPROVAL WILL NOT TAKE PLACE UNTIL THE FOLLOWING HAS OCCURRED:
  - REPLACE ANY DEAD OR DAMAGED PLANT MATERIAL. REPLACEMENT PLANTING MUST COMPLY WITH THE ORIGINAL PLANTING SPECIFICATIONS, SIZES AND SPACING DESCRIBED FOR THE PLANTS BEING REPLACED.
  - CONFIRM THAT ALL TREE STAKES ARE SUFFICIENT TO SUPPORT TREES. REPLACE AS NEEDED.
  - REPLACE MULCH TO THE ORIGINAL DEPTH DICTATED IN CONSTRUCTION.
  - REPAIR OR REPLACE ANY NON-FUNCTIONAL/ DAMAGED IRRIGATION EQUIPMENT.
  - REMOVE, CLEAN AND REINSTALL ALL FILTERS.
  - FLUSH ALL DRIP EMITTER SYSTEMS.

### PLANTING NOTES

- DO NOT WILLFULLY PROCEED WITH PLANTING AS DESIGNED WHEN IT IS OBVIOUS THAT UNKNOWN OBSTRUCTIONS, GRADE DIFFERENCES AND/OR AREA DIFFERENCES EXIST THAT MAY NOT HAVE BEEN KNOWN DURING DESIGN. SUCH CONDITIONS SHALL BE IMMEDIATELY BROUGHT TO THE ATTENTION OF THE OWNER/OWNER'S REPRESENTATIVE. THE CONTRACTOR SHALL ASSUME FULL RESPONSIBILITY FOR ALL NECESSARY REVISIONS DUE TO FAILURE TO GIVE SUCH NOTIFICATION.
- CONTRACTOR SHALL BE RESPONSIBLE FOR COORDINATION WITH ANY SUBCONTRACTORS AS REQUIRED TO ACCOMPLISH LANDSCAPE INSTALLATION OPERATIONS.
- CONTRACTOR TO PROVIDE A MINIMUM OF 2% POSITIVE DRAINAGE IN ALL PLANTING AREAS. IN NO CASE SHALL WATER DRAIN TOWARDS BUILDINGS.
- WEED AND EXISTING GRASS CONTROL:
  - WEED AND GRASS TYPES SHOULD BE IDENTIFIED BY AN APPROVED LICENSED PEST CONTROL ADVISOR TO ENSURE COMPATIBILITY WITH CHEMICALS AND SEASON OF THE APPLICATION. DO NOT USE CHEMICAL/METHOD THAT WOULD ADVERSELY AFFECT NEW PLANTING. REMOVE EXISTING PERENNIAL WEEDS FROM SITE BY MOWING AND GRUBBING.
- SOILS
  - SOIL TESTING
    - THE CONTRACTOR SHALL OBTAIN A SOILS TEST FOR AGRICULTURAL SUITABILITY AND FERTILITY PREPARED BY A CALIFORNIA ASSOCIATION OF AGRICULTURAL LABORATORIES MEMBER. SOIL TESTING SHALL OCCUR AFTER ALL SOILS HAS BEEN IMPORTED TO THE SITE AND ROUGH GRADE ESTABLISHED, BUT PRIOR TO SOIL PREPARATION.
    - SOILS REPORT SHALL CONTAIN ANALYSIS OF SOIL TEXTURE, INFILTRATION RATE, PH, TOTAL SOLUBLE SALTS, SODIUM, AND PERCENT ORGANIC MATTER. SOILS REPORT SHALL CONTAIN RECOMMENDATIONS FOR SOIL PREPARATION, AMENDED SOIL AND FERTILIZATION.
    - A MINIMUM OF 2 LOCATIONS SHALL BE SAMPLED, ADDITIONAL SAMPLES REQUIRED AT THE RATE OF ONE PER EVERY 10,000 SF OF LANDSCAPE AREA.
    - TWO (2) SAMPLES PER LOCATION SHALL BE TAKEN, ONE AT A DEPTH OF 10" AND ONE AT A DEPTH OF 24" TO 36". EACH SAMPLE SHALL CONTAIN APPROXIMATELY ONE QUART OF SOIL AND BE LABELED PER LOCATION AND DEPTH.
    - THIS REPORT SHALL BE FURNISHED TO THE OWNER/OWNER'S REPRESENTATIVE FOR REVIEW PRIOR TO IMPLEMENTATION.
  - SOIL PREPARATION:
    - FOR BID PURPOSES, ASSUME THE ROTOTILLING OF THE FOLLOWING AMENDMENTS INTO THE SOIL AT RATES INDICATED PER 1,000 SQUARE FEET AND INCORPORATE INTO THE TOP 6" OF SOIL:
      - 4 CUBIC YARDS (CY) NITROGEN STABILIZED REDWOOD SHAVINGS
      - 150 LBS GYPSUM
      - 125 LBS GRD POWER PLUS
    - BACKFILL: FOR BID PURPOSES, PLANT PIT BACKFILLING SOILS SHALL CONSIST OF ONE (1) PART EXCAVATED SOIL TO ONE (1) PART AMENDED SOIL. MATERIALS SHALL BE THOROUGHLY MIXED BEFORE PLACEMENT.
    - FERTILIZATION: FOR BID PURPOSES, IN ADDITION TO BACKFILL, COMMERCIAL FERTILIZER 20-10-5 AGRIFORM 21-GRAM TABLETS SHALL BE ADDED TO PLANT PITS AT THE FOLLOWING RATES:
      - 1 TABLET PER 1 GALLON CONTAINER
      - 2 TABLETS PER 5 GALLON CONTAINER
      - 3 TABLETS PER 15 GALLON CONTAINER
      - 4 TABLETS PER 24" BOX
      - 5 TABLETS PER 30" BOX
      - 6 TABLETS PER 36" BOX
      - 7 TABLETS PER 42" BOX
      - 8 TABLETS PER 48" BOX AND THOSE LARGER THAN 48".
      - NO PACKS TO BE USED FOR SEASONAL COLOR AREAS.
    - SHOULD IMPORT SOIL BE NECESSARY, INDICATE SOURCE LOCATION. SOIL SHALL BE SANDY LOAM CONTAINING NO TOXIC CHEMICALS. SUBMIT AGRICULTURAL SUITABILITY AND FERTILITY TESTING FOR THIS IMPORT TO OWNER/OWNER'S REPRESENTATIVE FOR APPROVAL PRIOR TO SOIL IMPORTATION. TEST REPORT SHALL INCLUDE AMENDMENT RECOMMENDATIONS AND BE DONE BY AN APPROVED CALIFORNIA ASSOCIATION OF AGRICULTURAL LABORATORIES MEMBER.
    - UNDER NO CIRCUMSTANCES, CONCRETE AND OTHER DEBRIS MAY BE CRUSHED AND REUSED AS FILL IN PLANTING AREA.
  - PLANT MATERIAL APPROVAL AND PLACEMENT
    - PROVIDE TREES, SHRUBS AND OTHER PLANTS OF SIZE, GENUS, SPECIES AND VARIETY SHOWN AND SCHEDULED FOR LANDSCAPE WORK AND COMPLYING WITH THE AMERICAN STANDARD FOR NURSERY STOCK (ANSI Z601).
    - ALL PLANT MATERIAL OF A GIVEN SPECIES SHALL HAVE MATCHING FORM, UNLESS OTHERWISE SPECIFIED.
    - IS IT THE CONTRACTOR'S RESPONSIBILITY TO FURNISH PLANT MATERIAL FREE FROM PESTS OR PLANT DISEASES. PRE-SELECTION OR TAGGED MATERIAL MUST BE INSPECTED BY THE CONTRACTOR AND CERTIFIED TO BE PEST AND DISEASE FREE PRIOR TO SHIPMENT. IT IS THE CONTRACTOR'S OBLIGATION TO PROVIDE ANY REQUIRED CERTIFICATIONS AND WARRANTY FOR ALL PLANT MATERIAL.
    - FINAL LOCATION OF ALL PLANT MATERIAL SHALL BE SUBJECT TO THE APPROVAL OF THE OWNER/OWNER'S REPRESENTATIVE.
    - NURSERY STAKES SHALL BE REMOVED FROM ALL TREES AFTER PLANTING. TREES SHALL BE ABLE TO BE SUPPORTED BY TREE STAKES ONLY.
    - IN AREAS WITH EXISTING TURF OR GROUNDCOVER, CONTRACTOR SHALL BE RESPONSIBLE FOR REPAIR OF BARE SPOTS AND ALL SCARS DUE TO IRRIGATION INSTALLATION OR RE-GRADING, AND SHALL MATCH EXISTING PLANTING TO ACHIEVE A UNIFORM OVERALL APPEARANCE.
    - LOCATION OF EXISTING TREES ARE APPROXIMATE. IF DURING GRADING OPERATION, EXISTING GRADE CANNOT BE MAINTAINED WITHIN DRIPLINE OF TREES, CONTACT OWNER/OWNER'S REPRESENTATIVE FOR DIRECTION PRIOR TO GRADING.
    - ANNUAL COLOR SHALL BE SELECTED BY OWNER/OWNER'S REPRESENTATIVE AT TIME OF INSTALLATION.
  - MULCH
    - ALL SHRUB/GROUNDCOVER AREAS SHALL BE TOP DRESSED WITH A MINIMUM OF 3" MULCH. TYPE SHALL BE SPECIFIED ON THE PLANS. SUBMIT SAMPLES TO OWNER/OWNER'S REPRESENTATIVE FOR APPROVAL.
  - ROOT BARRIERS
    - IN ADDITION TO ROOT BARRIERS SHOWN ON THE PLANS, ALL TREES WITHIN 5' OF ANY HARDSCAPE SHALL HAVE ROOT BARRIERS PLACED ADJACENT TO ANY HARDSCAPE. ROOT BARRIERS SHALL BE TEN (10) FOOT LONG BY 24" DEEP AND CENTERED ALONG TRUNK OF TREE.
  - MOW STRIPS
    - IN ADDITION TO ANY MOW STRIPS OR HEADERS SHOWN ON THE PLANS, CONCRETE MOW STRIP, REDWOOD OR RECYCLED PLASTIC HEADERBOARD SHALL BE INSTALLED PER DETAIL WHEREVER GROUNDCOVER AREAS MEET TURF.

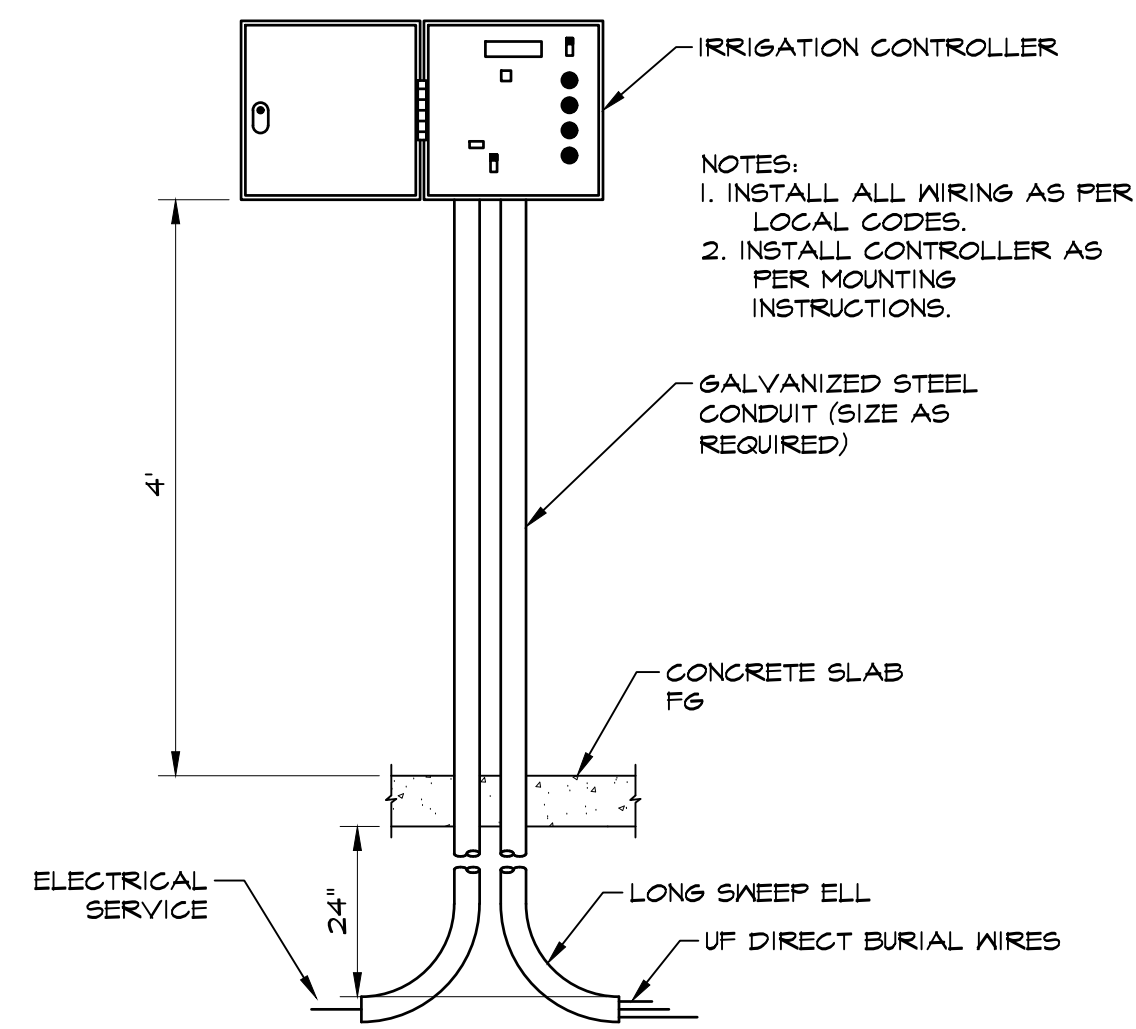
project:

# BLUE WAVE CAR WASH

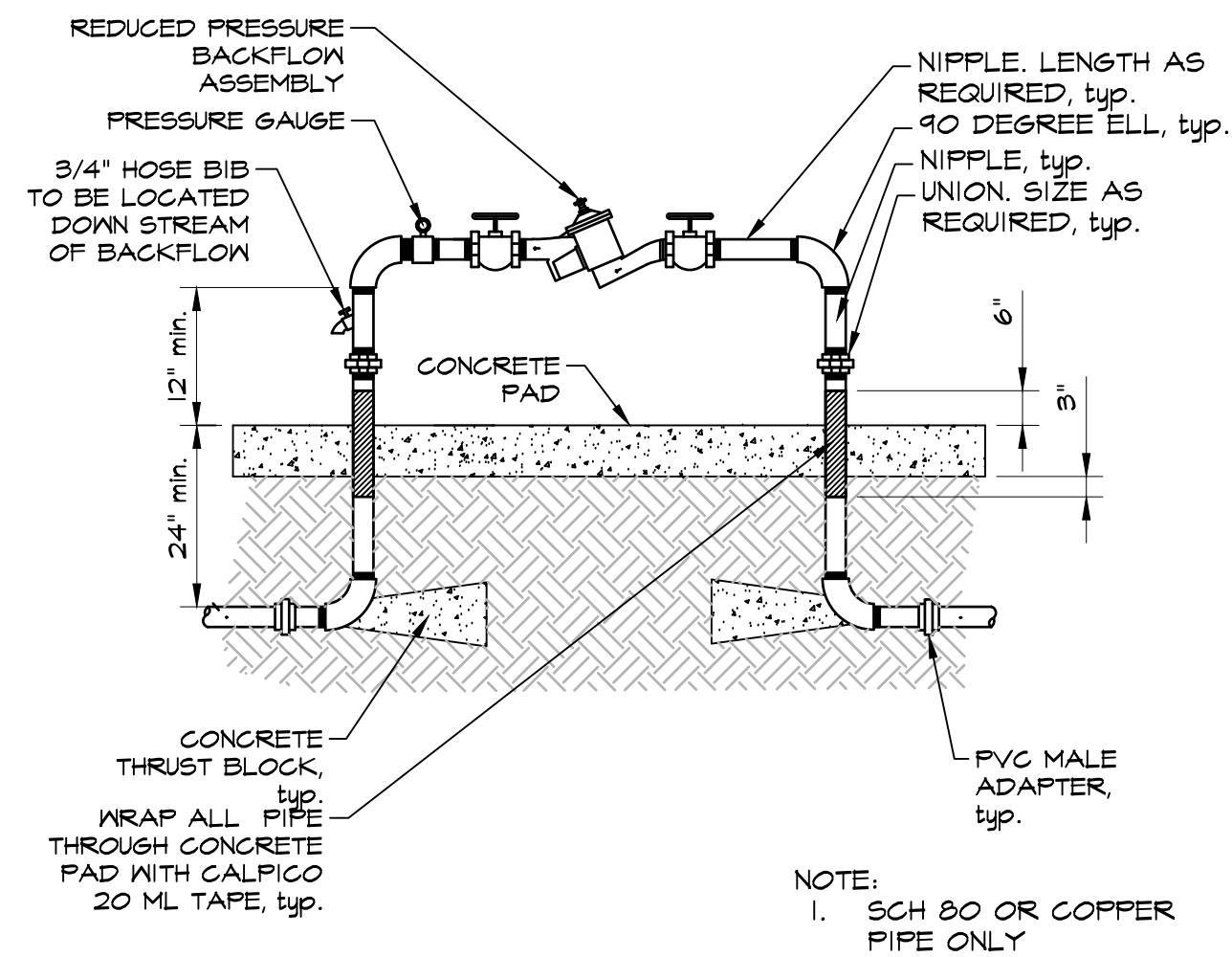
1160 E. LELAND  
RD.  
PITTSBURG, CA

client:

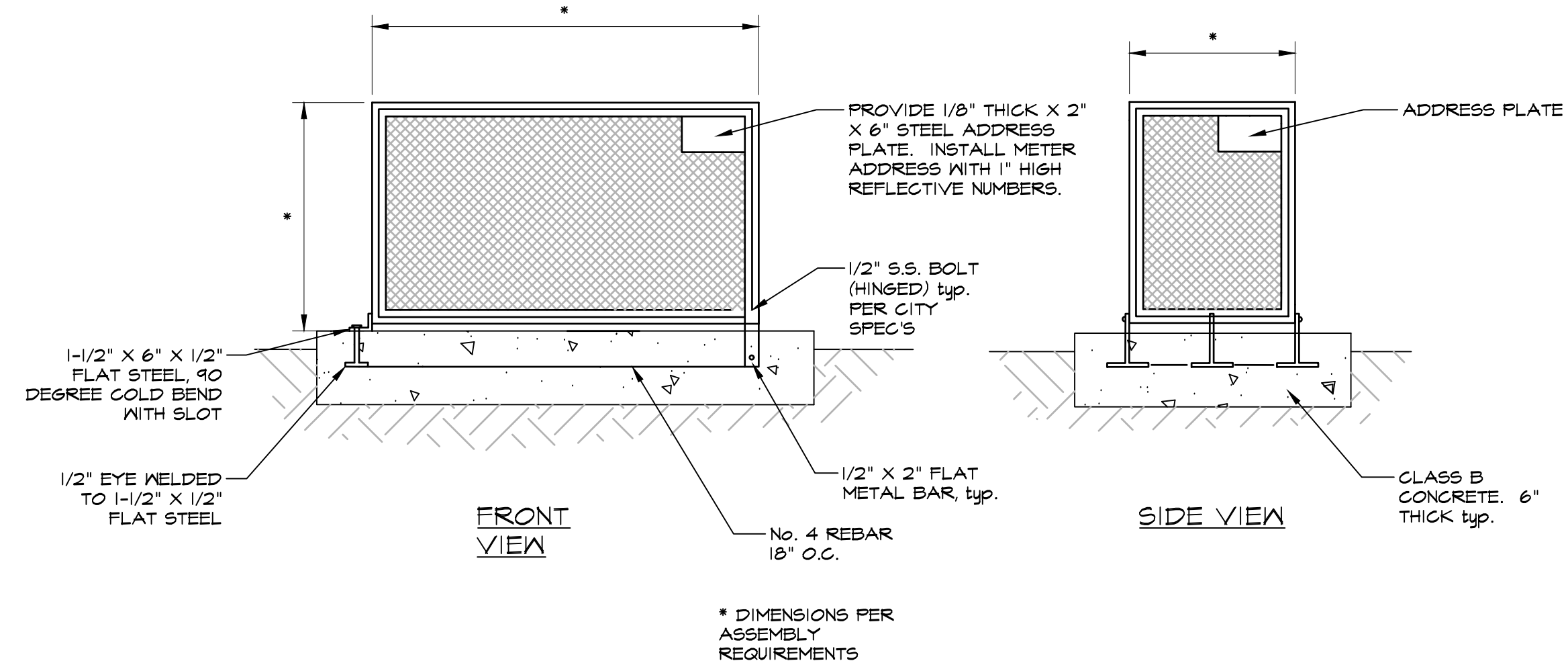
## BLUE WAVE



NOTES:  
1. INSTALL ALL WIRING AS PER LOCAL CODES.  
2. INSTALL CONTROLLER AS PER MOUNTING INSTRUCTIONS.



NOTE:  
1. SCH 80 OR COPPER PIPE ONLY



\* DIMENSIONS PER ASSEMBLY REQUIREMENTS

1 IRRIGATION CONTROLLER-WALL MOUNT  
3/4" = 1'-0"

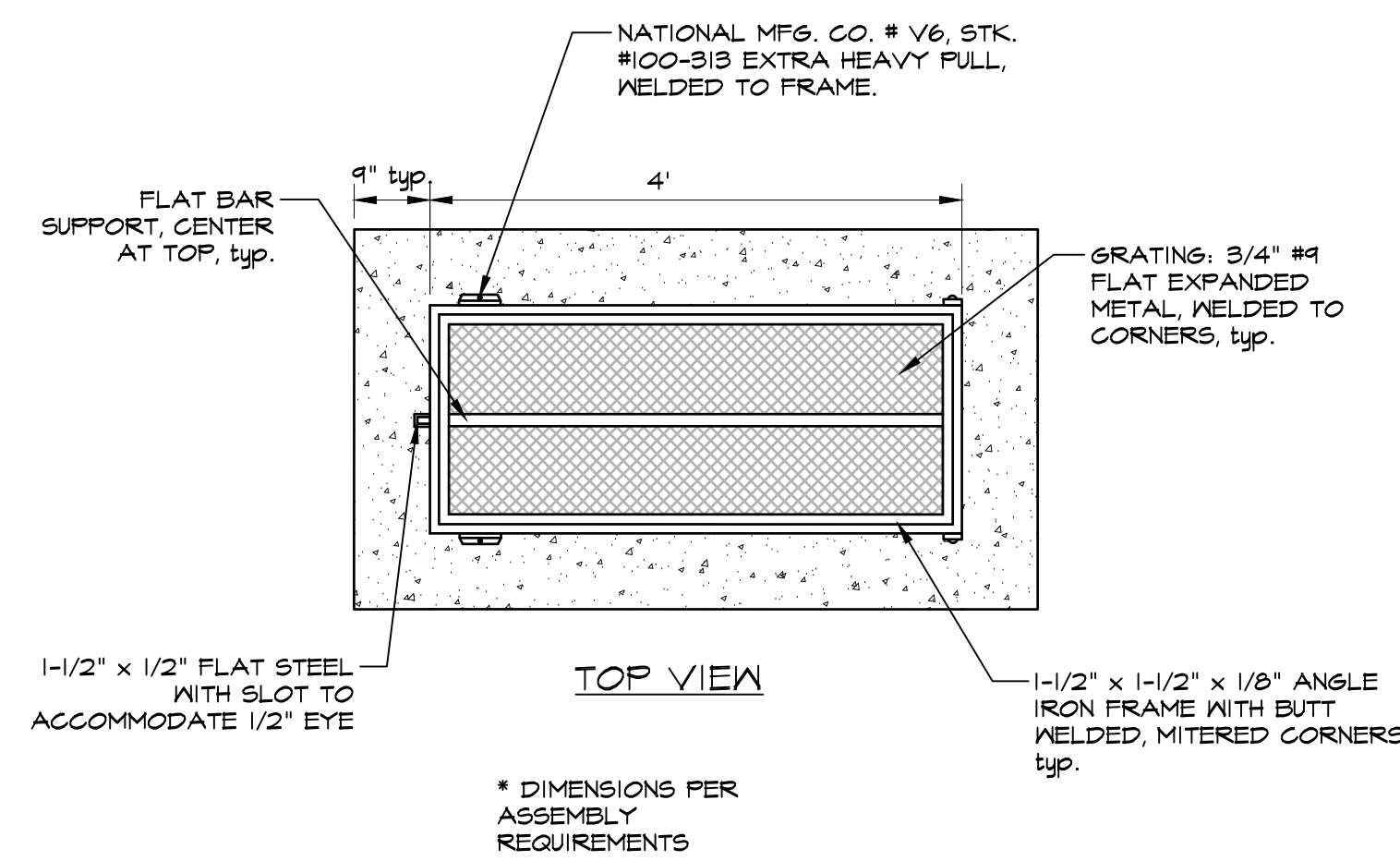
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2 BACKFLOW PREVENTER  
3/8" = 1'-0"

DL-IR-BAG-04

3 BACKFLOW PREVENTER CAGE  
3/4" = 1'-0"

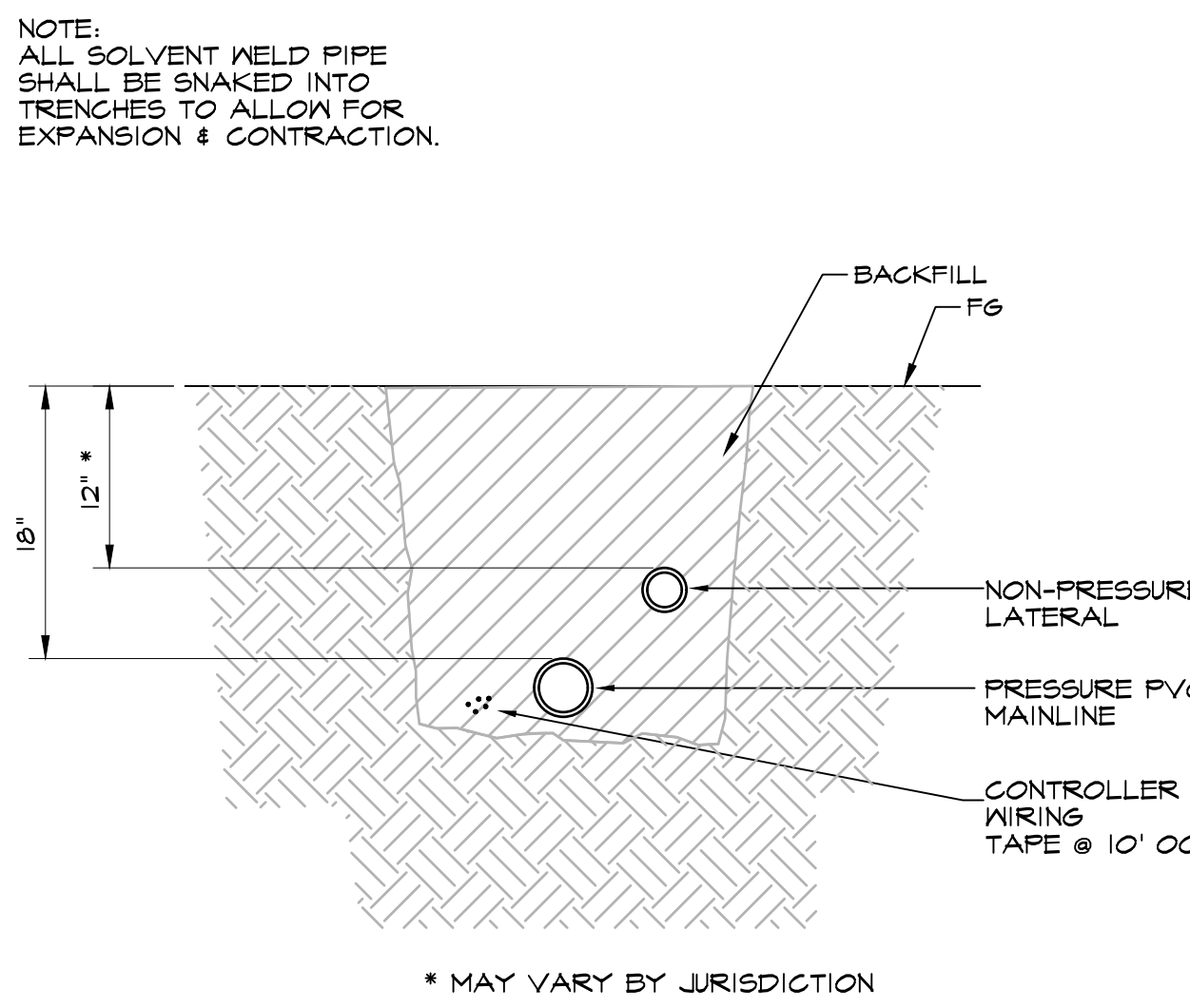
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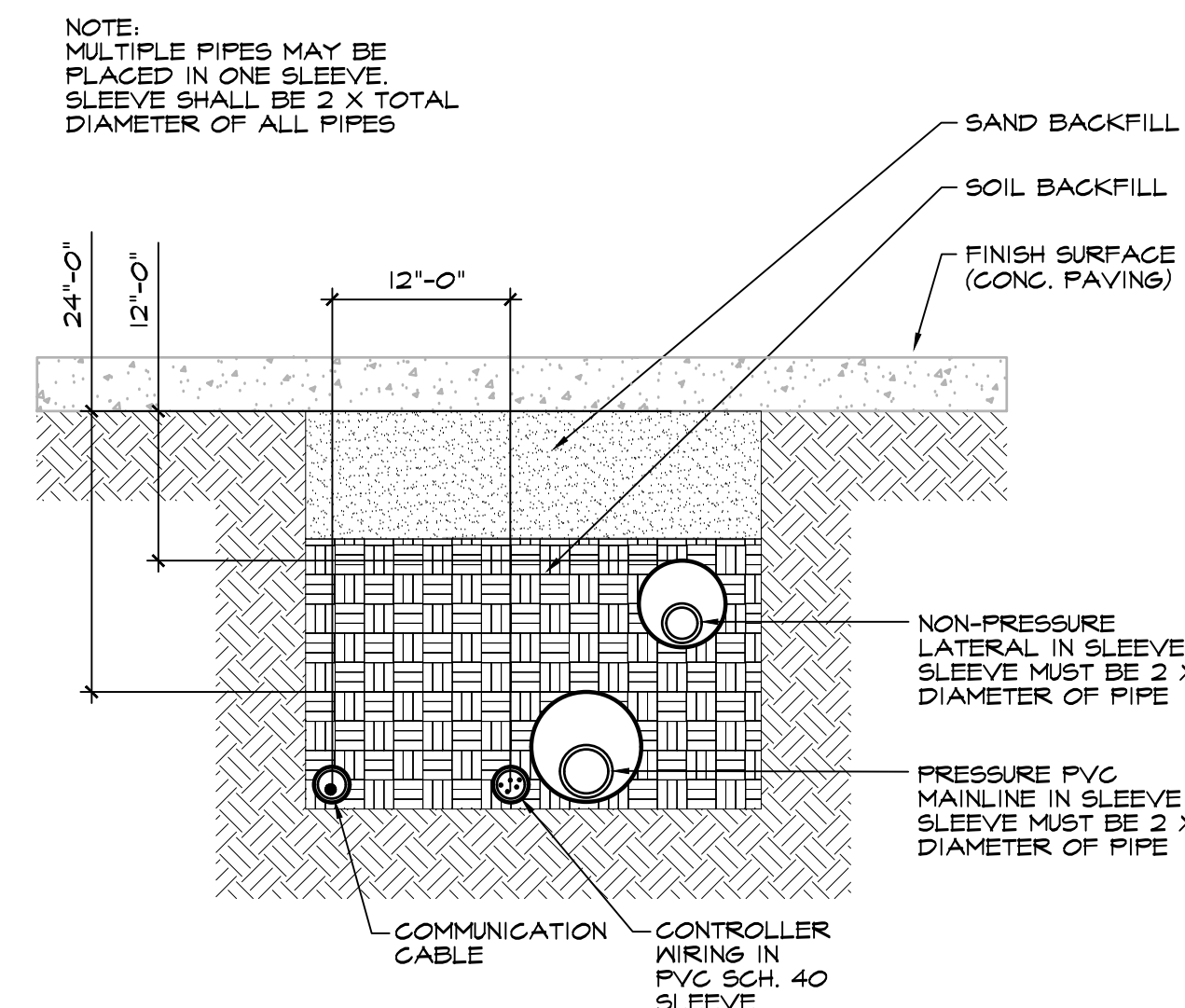
NOTES:

1. ALL EXPOSED PARTS SHALL BE SAND BLASTED SMOOTH AND POWDER COATED, FOREST GREEN.
2. ALL OUTSIDE WELDS SHALL BE GROUND SMOOTH.
3. HINGE FABRICATED FROM 1/2" STAINLESS STEEL. BOLT, WASHERS AND AIRCRAFT NUTS, BURR THREAD TO PREVENT REMOVAL.
4. METAL GRATING SHALL BE INSTALLED AND WELDED TO INSIDE OF ENCLOSURE. POWDER COATED FOREST GREEN.
5. VACUUM BREAKER MANIFOLD NOT TO EXCEED 42" INCHES IN LENGTH IN ORDER FOR GAGE CLEARANCE.
6. INSTALL BACKFLOW PREVENTER BLANKET PER MANUFACTURER'S RECOMMENDATIONS.

\* DIMENSIONS PER ASSEMBLY REQUIREMENTS



\* MAY VARY BY JURISDICTION



NOTE:  
MULTIPLE PIPES MAY BE PLACED IN ONE SLEEVE. SLEEVE SHALL BE 2 X TOTAL DIAMETER OF ALL PIPES

SAND BACKFILL  
SOIL BACKFILL  
FINISH SURFACE (CONC. PAVING)

NON-PRESSURE LATERAL IN SLEEVE. SLEEVE MUST BE 2 X DIAMETER OF PIPE  
PRESSURE PVC MAINLINE IN SLEEVE. SLEEVE MUST BE 2 X DIAMETER OF PIPE

4 BACKFLOW PREVENTER CAGE  
3/4" = 1'-0"

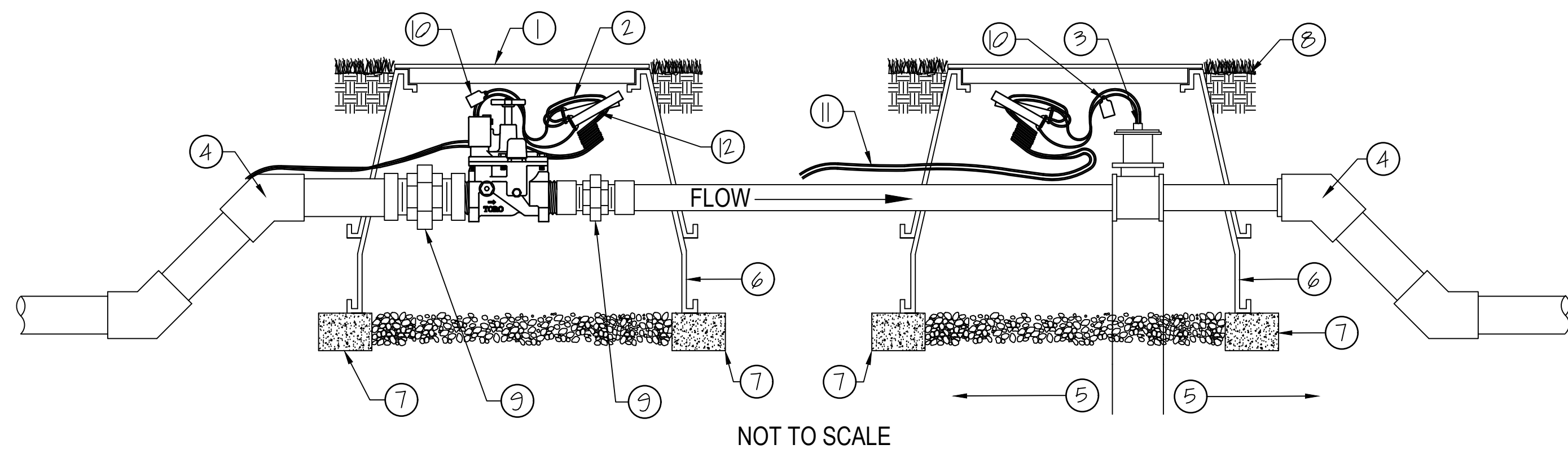
DL-IR-BAG-02

5 TRENCHING  
1" = 1'-0"

DL-IR-PIP-02

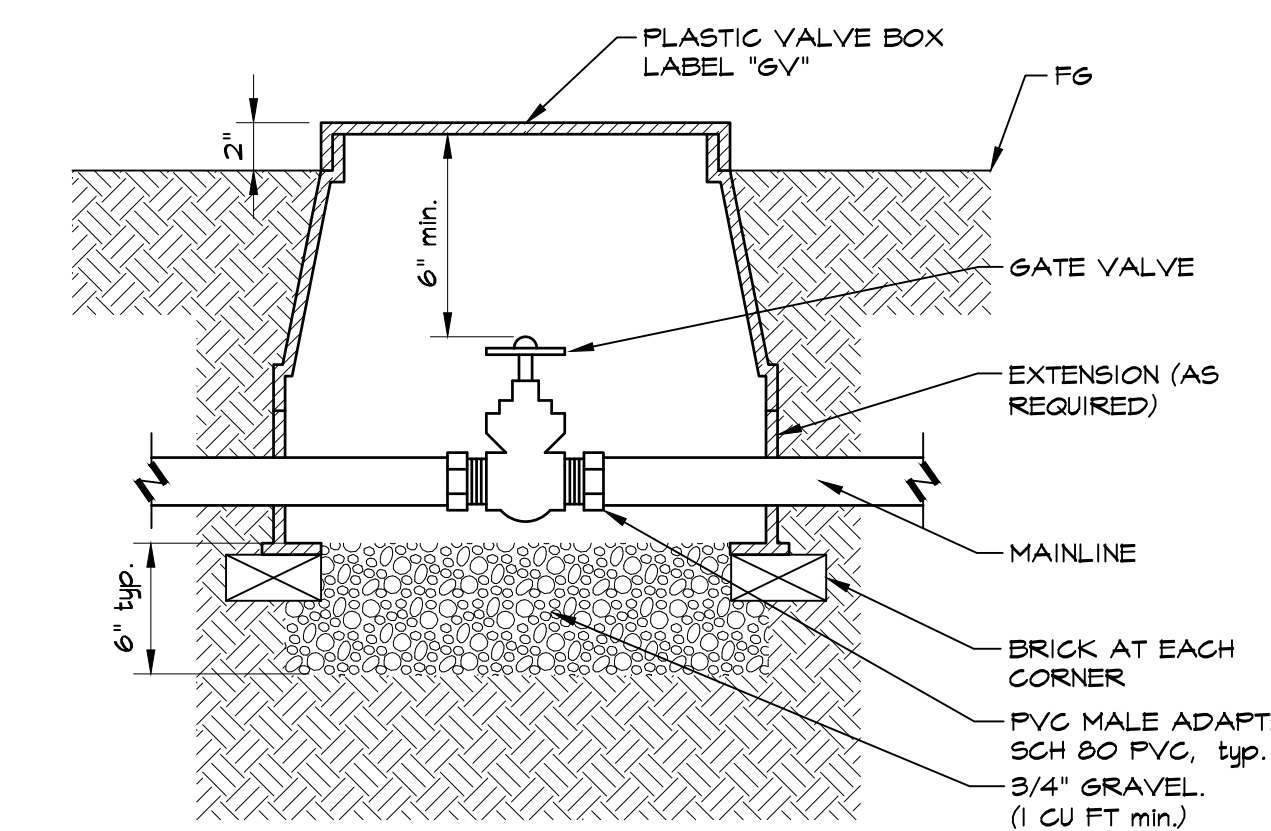
6 IRRIGATION SLEEVE - TRENCH  
1" = 1'-0"

DL-IR-PIP-05



NOT TO SCALE

- 1 VALVE BOX
- 2 CONDUCTORS
- 3 FLOW SENSOR
- 4 PVC ELL - 45 DEGREE
- 5 MIN. 10 X PIPE DIA. UPSTREAM  
MIN. 5 X PIPE DIA. DOWNSTREAM
- 6 EXTENSIONS AS NECESSARY
- 7 BRICK SUPPORT
- 8 VALVE BOX SET 2" ABOVE FG
- 9 UNION
- 10 IDENTIFICATION TAG
- 11 COMMUNICATION CABLE
- 12 WATER PROOF SPLICE



7 MASTER VALVE - FLOW SENSOR W/ UNION  
1 1/2" = 1'-0"

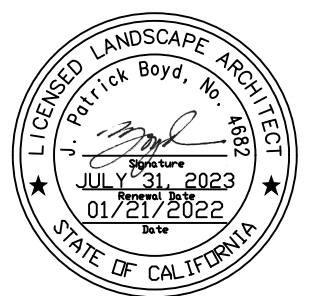
DL-IR-SEN-02

8 GATE VALVE  
1 1/2" = 1'-0"

DL-IR-VAL-04

designlab 252

P.O. Box 27616 Fresno, CA 93729  
Studio: 559.472.9966 Fax: 559.472.9969



drawn by: checked by:  
KJ PB

submittal:	date:
No. 1	01/26/2020
No. 2	05/26/2022
No. 3	06/24/2022
No. 4	06/30/2022
No. 5	07/08/2022

scale: 1"=20'-0"

sheet title:

# LANDSCAPE DETAILS

sheet no.

## LA-4

project no. 20-10-008

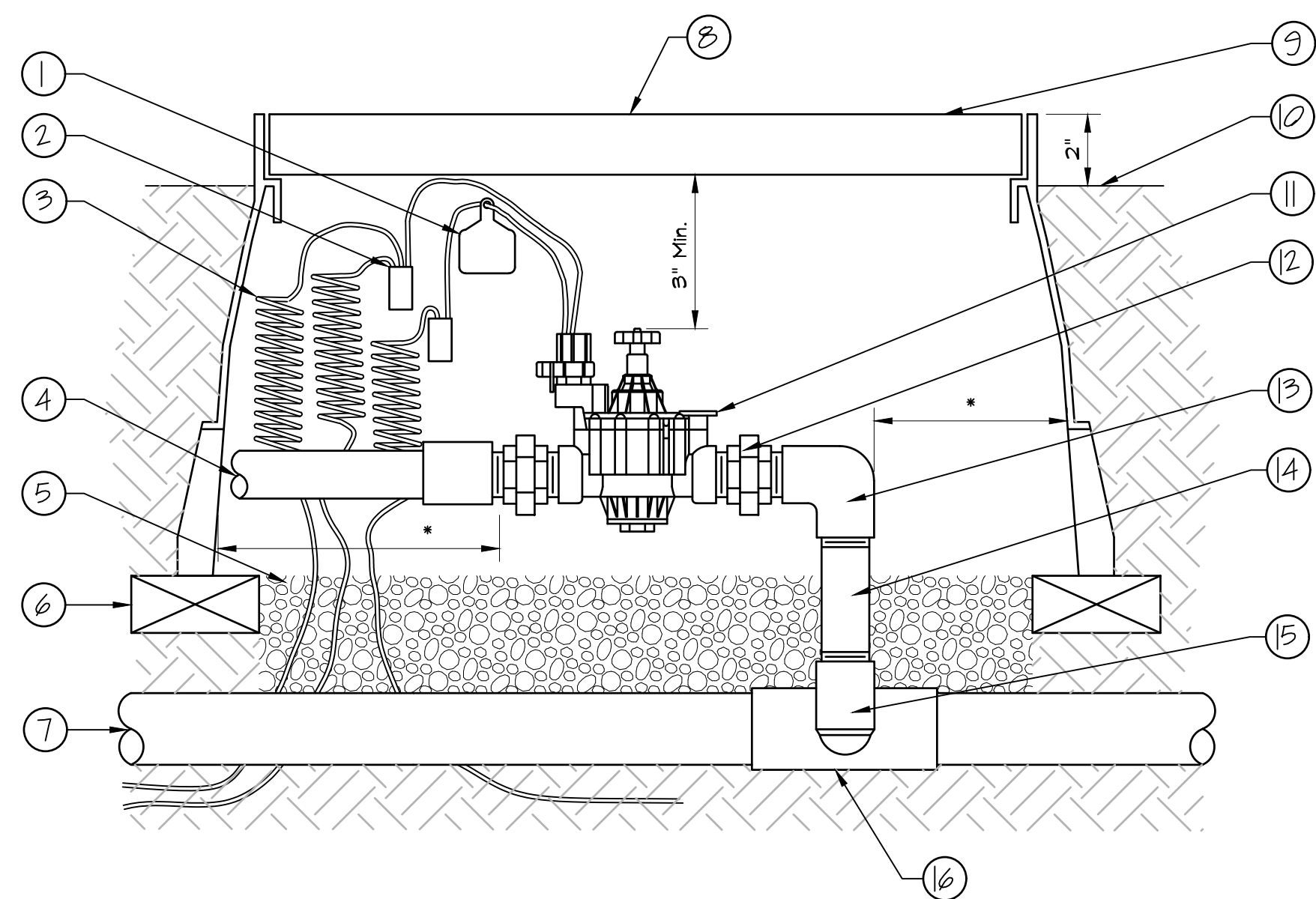
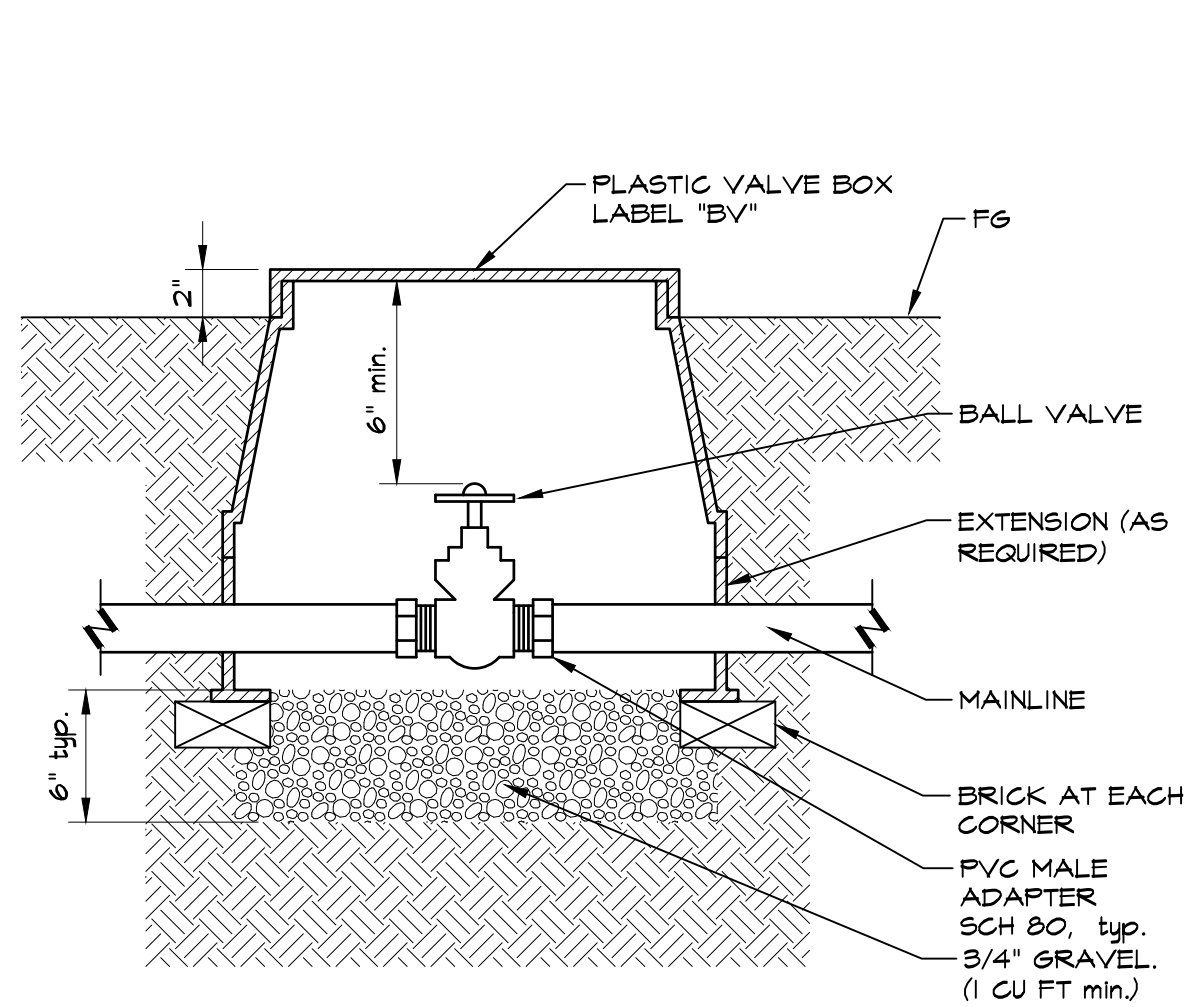
project:

# BLUE WAVE CAR WASH

1160 E. LELAND RD.  
PITTSBURG, CA

client:

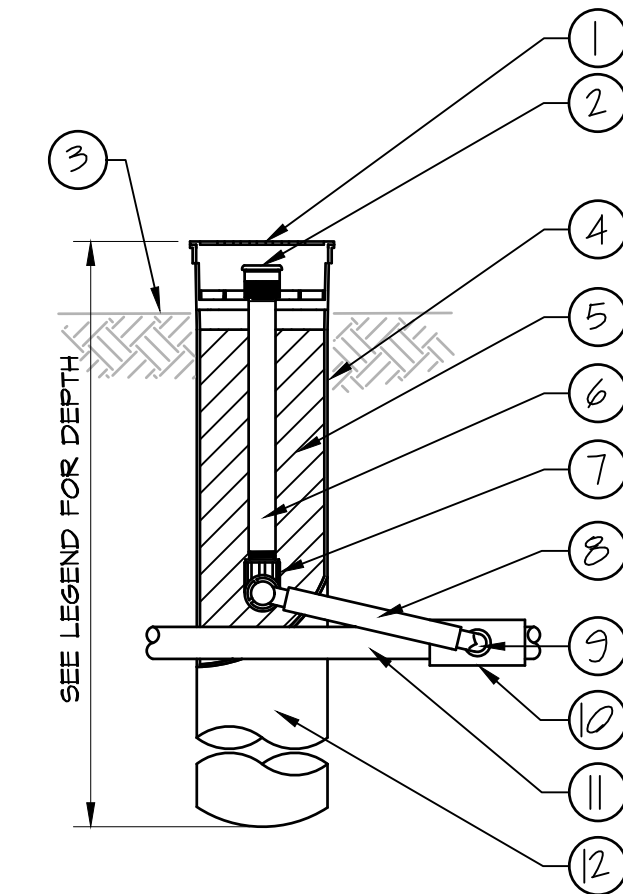
# BLUE WAVE



- ① INTERNAL IDENTIFICATION TAG
- ② WATERPROOF CONNECTION
- ③ 30° OF COILED WIRE
- ④ PVC LATERAL PIPE
- ⑤ 3" Min. DEPTH OF 3/4" GRAVEL
- ⑥ BRICK SUPPORT
- ⑦ PVC MAINLINE PIPE
- ⑧ VALVE BOX IDENTIFICATION TAG
- ⑨ PLASTIC VALVE BOX
- ⑩ FG
- ⑪ REMOTE CONTROL VALVE
- ⑫ UNION
- ⑬ PVC SCH 80 ELL
- ⑭ PVC SCH 80 NIPPLE (LENGTH AS REQUIRED)
- ⑮ SCH 80 NIPPLE (2" LENGTH, HIDDEN) AND SCH 80 ELL
- ⑯ PVC SCH 80 TEE OR ELL

NOTES:  
\* 5 X THE DIAMETER OF THE PIPE

- ① 4" GRATE (3" ABOVE FG)
- ② BUBBLER (SEE IRRIGATION LEGEND)
- ③ FG
- ④ FILTER FABRIC
- ⑤ FEA GRAVEL
- ⑥ 1/2" PVC SCHEDULE 80 NIPPLE
- ⑦ 1/2" 90 DEGREE ELL
- ⑧ 12" SWING ASSEMBLY
- ⑨ 1/2" MALE NPT INLET
- ⑩ PVC SCHEDULE 40 TEE OR ELL
- ⑪ LATERAL PIPE
- ⑫ PERFORATED PIPE CANISTER 4" dia.



1 BALL VALVE  
1 1/2" = 1'-0"

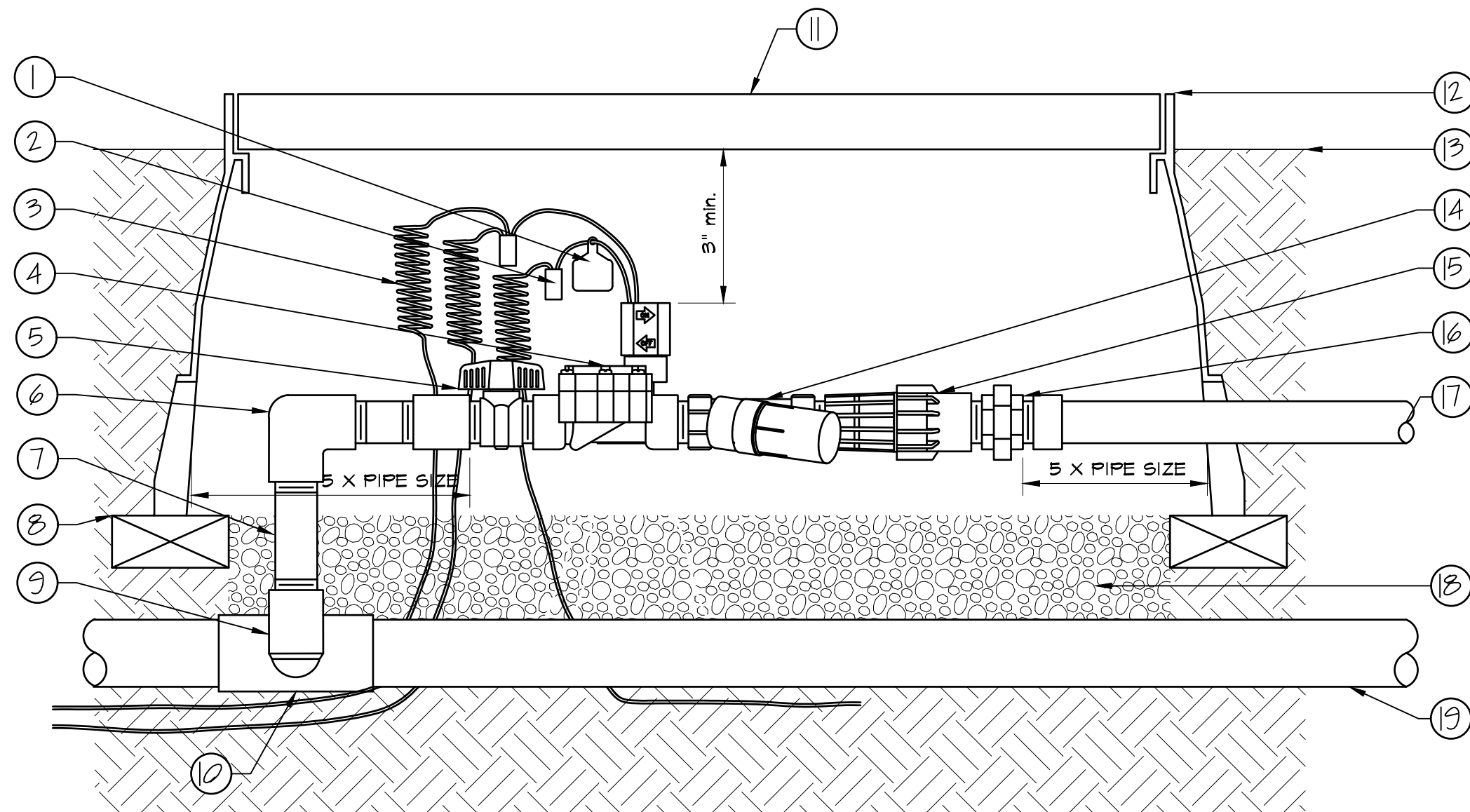
DL-IR-VAL-10

2 REMOTE CONTROL VALVE - GLOBE - W/ UNION  
3" = 1'-0"

DL-IR-VAL-08

4 BUBBLER IN ROOT WATERING SYSTEM  
1 1/2" = 1'-0"

DL-IR-SPR-DEEP-08



- ① INTERNAL IDENTIFICATION TAG
- ② WATERPROOF CONNECTION
- ③ 30° OF COILED WIRE
- ④ REMOTE CONTROL VALVE
- ⑤ BALL VALVE (LINE SIZE)
- ⑥ SCH 40 ELL
- ⑦ SCH 80 NIPPLE (LENGTH AS REQUIRED) typ.
- ⑧ BRICK SUPPORT
- ⑨ SCH 80 NIPPLE (2" LENGTH, HIDDEN) AND SCH 40 ELL
- ⑩ SCH 40 TEE OR ELL
- ⑪ VALVE BOX IDENTIFICATION TAG
- ⑫ PLASTIC VALVE BOX (2" ABOVE FG)
- ⑬ FG
- ⑭ INLINE MESH FILTER (SEE SCHEDULE FOR MESH SIZE)
- ⑮ PRESSURE REGULATOR
- ⑯ UNION
- ⑰ LATERAL TO DRIP
- ⑱ 3/4" GRAVEL, 3" DEPTH min.
- ⑲ MAINLINE

3 DRIP ZONE VALVE  
3" = 1'-0"

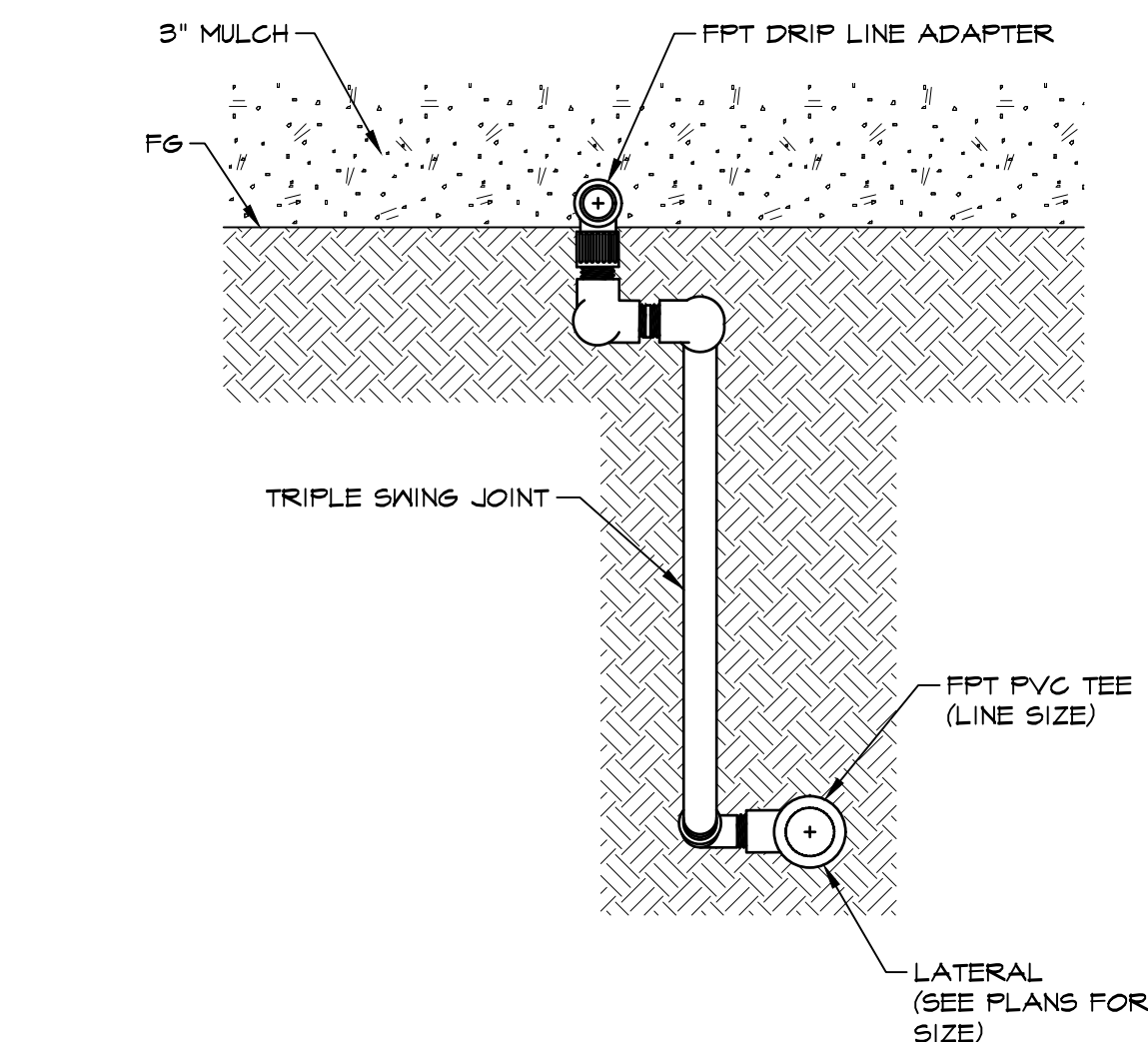
DL-IR-VAL-12

5 DRIPLINE MANIFOLD LAYOUT  
1/8" = 1'-0"

DL-IR-SPR-DRIP-34

6 DRIPLINE LAYOUT  
1" = 1'-0"

DL-IR-SPR-DRIP-02



7 DRIP-LINE RISER DETAIL  
3" = 1'-0"

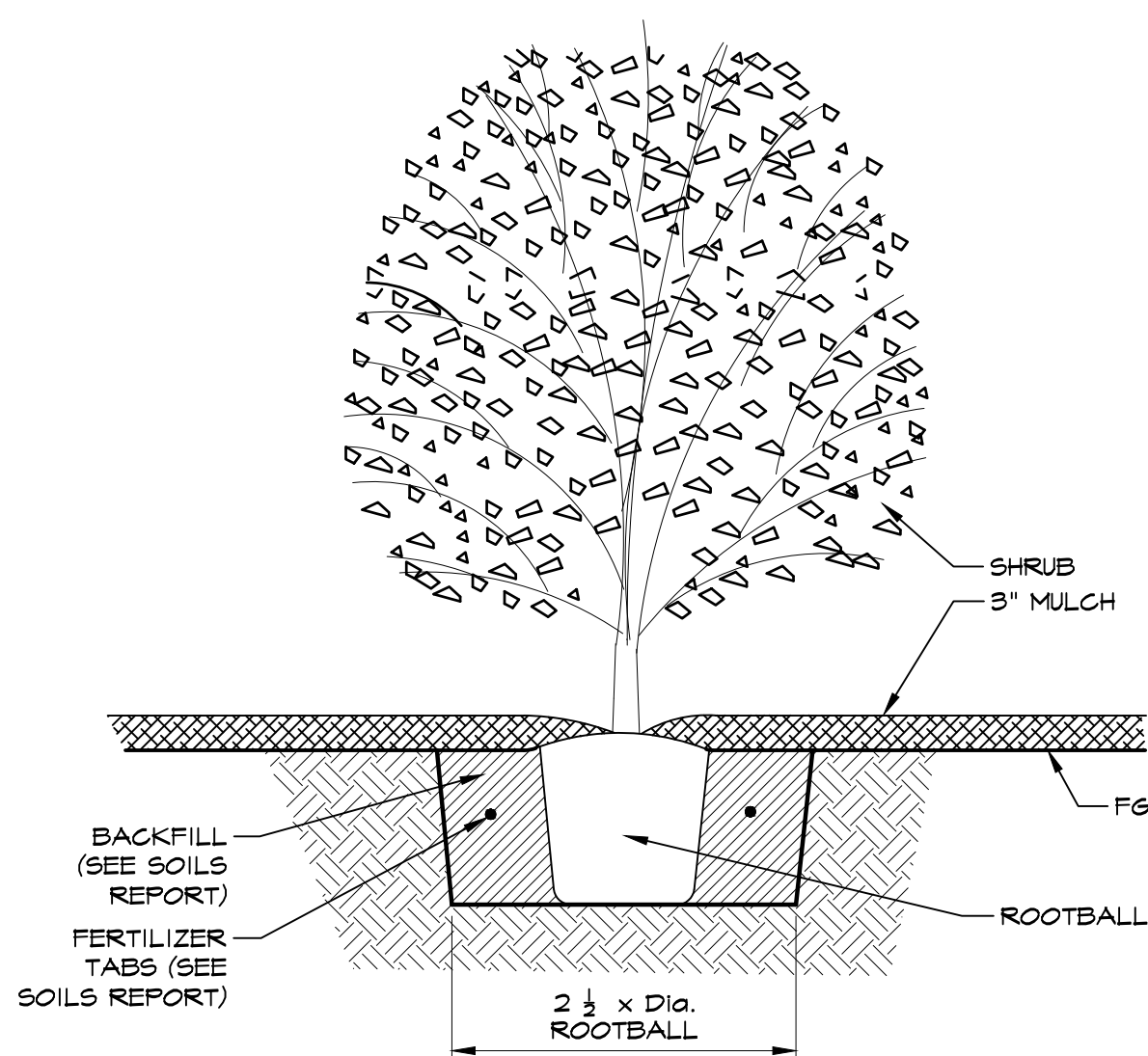
DL-IR-SPR-DRIP-35

8 FLUSH VALVE - AUTOMATIC  
1 1/2" = 1'-0"

DL-IR-SPR-DRIP-34

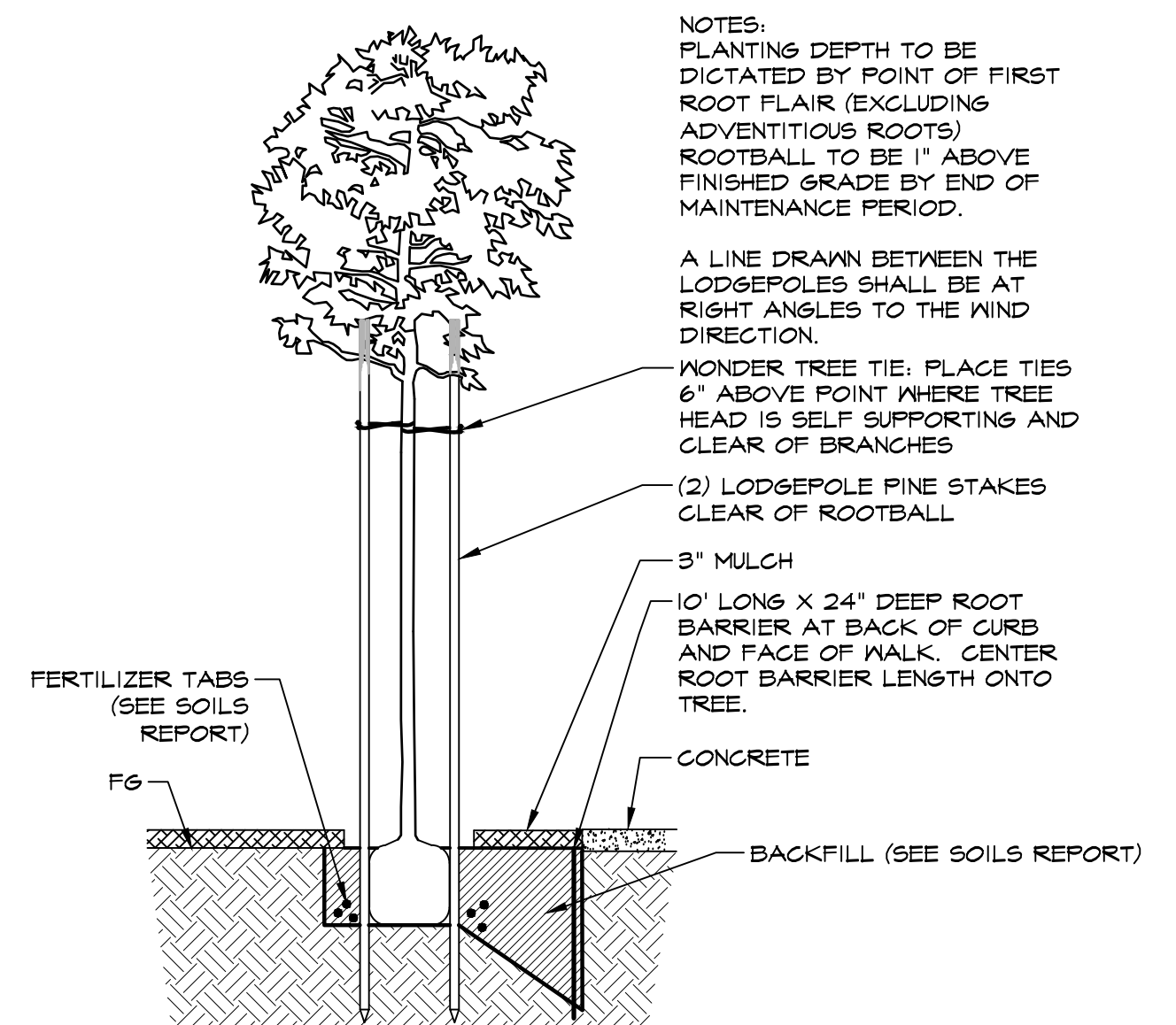
9 SHRUB PLANTING  
3/4" = 1'-0"

DL-PL-SHR-04



9 SHRUB PLANTING  
3/4" = 1'-0"

6 DRIPLINE LAYOUT  
1" = 1'-0"



10 TREE PLANTING - PAVEMENT ADJACENT  
1/2" = 1'-0"

DL-PL-TRE-35

designlab 252

P.O. Box 27616 Fresno, CA 93729  
Studio: 559.472.9966 Fax: 559.472.9969



drawn by: checked by:  
**KJ PB**

submittal:	date:
No. 1	01/26/2020
No. 2	05/26/2022
No. 3	06/24/2022
No. 4	06/30/2022
No. 5	07/08/2022

scale: 1"=20'-0"

sheet title:

# LANDSCAPE DETAILS

sheet no.

# LA-5

project no. 20-10-008

project:

**BLUE WAVE  
CAR WASH**

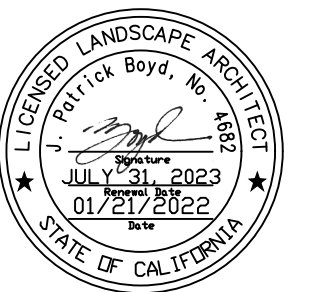
**1160 E. LELAND  
RD.  
PITTSBURG, CA**

client:

**BLUE WAVE**

**des:gnlab 252**

P.O. Box 27616 Fresno, CA 93729  
Studio: 559.472.9966 Fax: 559.472.9969



drawn by: **KJ** checked by: **PB**

submittal: **No. 1** date: **01/26/2020**  
**No. 2** **05/26/2022**  
**No. 3** **06/24/2022**  
**No. 4** **06/30/2022**  
**No. 5** **07/08/2022**

scale: 1"=20'-0"

sheet title:

**LANDSCAPE  
NOTES**

sheet no.

**LA-3**

project no. **20-10-008**

**GENERAL PROJECT INFORMATION**

Date: **06.30.2022**

Project Name: **Blue Wave Car Wash**  
Project Type:  Commercial  Residential  
Name of Project Applicant: **Patrick Boyd** Telephone No. **559-472-9966**  
Fax No.  
Title: **Landscape Architect** Email Address: **Patrick@designlab252.com**  
Company: **Designlab 252** Street Address: **371 E Everglade Avenue**  
City: **Fresno** State: **CA** Zip Code: **93720**

**Project Address and Location**  
Street Address: **1160 E. LELAND RD.** Parcel, tract or lot number, if available:  
City: **PITTSBURG** Latitude/Longitude (optional):  
State: **CA** Zip Code:

**Property Owner or his/her designee:**  
Name: Telephone No.  
Fax No.  
Title: Email Address:  
Company: Street Address:  
City: State: Zip Code:

**Water Purveyor:** CITY  
**Compliance Type:** FULL COMPLIANCE

Insert monthly Eto and Precipitation totals where:

Eto = Reference Evapotranspiration/month for Project Location (See Water Efficient Landscape Document)  
Precip. = Precipitation /month for Project Location (see Wuculs or local weather station data on internet.)  
Eppt = Effective precipitation (25% of monthly Precip)

LOCATION: **PITTSBURG, CA**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	ANNUAL TOTAL
Eto/Mo	1.0	1.5	2.8	4.1	5.6	6.4	7.4	6.4	5.0	3.2	1.3	0.7	45.4
Precip.													0.00
Eppt													0.00

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
Eto-Eppt	1.0	1.5	2.8	4.1	5.6	6.4	7.4	6.4	5.0	3.2	1.3	0.7	45.4

20-10-008\_mwelo.xlsx  
GENERAL PROJECT INFORMATION

**HYDROZONE AREA (SF)**

VALVE NUMBER	Type	Hydrozone	Area	*Trees (B1/DR)				Shrubs/GC (B2/DL)				Turf/GC (S/R)				Temp	Water Feature
				VL	LW	MW	HW	VL	LW	MW	HW	VL	LW	MW	HW		
1	A	LW	3532	0	3532	0	0	0	0	0	0	0	0	0	0	0	0
2	B	LW	3822	0	0	0	0	0	0	3822	0	0	0	0	0	0	0
3	A	LW	2398	0	2398	0	0	0	0	0	0	0	0	0	0	0	0
4	B	LW	2582	0	0	0	0	0	0	2582	0	0	0	0	0	0	0
5	A	LW	1433	0	1433	0	0	0	0	0	0	0	0	0	0	0	0
6	A	LW	6437	0	6437	0	0	0	0	0	0	0	0	0	0	0	0
7	B	LW	899	0	0	0	0	0	0	899	0	0	0	0	0	0	0
8	B	LW	3607	0	0	0	0	0	0	3607	0	0	0	0	0	0	0
9	B	LW	3248	0	0	0	0	0	0	3248	0	0	0	0	0	0	0
10				0	0	0	0	0	0	0	0	0	0	0	0	0	0
11				0	0	0	0	0	0	0	0	0	0	0	0	0	0
12				0	0	0	0	0	0	0	0	0	0	0	0	0	0
13				0	0	0	0	0	0	0	0	0	0	0	0	0	0
14				0	0	0	0	0	0	0	0	0	0	0	0	0	0
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19				0	0	0	0	0	0	0	0	0	0	0	0	0	0
20				0	0	0	0	0	0	0	0	0	0	0	0	0	0
21				0	0	0	0	0	0	0	0	0	0	0	0	0	0
22				0	0	0	0	0	0	0	0	0	0	0	0	0	0
23				0	0	0	0	0	0	0	0	0	0	0	0	0	0
24				0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>TOTALS</b>				<b>0</b>	<b>13800</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>14158</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

\* Hydrozone area for all tree valves calculated by using the mature canopy of trees

*Hydro zone	Water Use	Plant Factor	Project Value
VL	Very Low	0-0.1	0.1
LW	Low	0.1-0.3	0.3
MW	Medium	0.4-0.6	0.5
HW	High	0.7-1.0	0.8
SLA	Special	1	1

** Irrigation Method	Type
B1 Drip Bubbler Tree	0.81
B2 Drip Bubbler Shrub	0.81
DL/DR Drip line/Drip Ring	0.81
R Rotor	0.75
S Spray	0.75

20-10-008\_mwelo.xlsx  
HYDROZONE AREA (SF)

**WATER EFFICIENT LANDSCAPE**

This worksheet is filled out by the project applicant and it is a required element of the Landscape Documentation Package  
Reference Evapotranspiration (Eto) **45.4** Project type ETAF **0.45**

HYDROZONER/PLANTING DESCRIPTION	HYDROZONE	PF	IRRIGATION METHOD**	Irrigation Efficiency (IE)	ETAF (PF/IE)	LANDSCAPE AREA (Sq. Ft.)	ETAF X AREA	ESTIMATED TOTAL WATER USE (ETWU)
<b>Regular Landscape Areas</b>								
<b>TREES</b>		VERY LOW	0.1	B1/DR	0.81	0.12	0	0
		LOW	0.3	B1/DR	0.81	0.37	13,800	5,111
		MEDIUM	0.5	B1/DR	0.81	0.62	0	0
		HIGH	0.8	B1/DR	0.81	0.99	0	0
<b>SHRUBS/GC</b>		VERY LOW	0.1	B2/DL	0.81	0.12	0	0
		LOW	0.3	B2/DL	0.81	0.37	14,158	5,244
		MEDIUM	0.5	B2/DL	0.81	0.62	0	0
		HIGH	0.8	B2/DL	0.81	0.99	0	0
<b>TURF/GC</b>		VERY LOW	0.1	R/S	0.75	0.13	0	0
		LOW	0.3	R/S	0.75	0.40	0	0
		MEDIUM	0.5	R/S	0.75	0.67	0	0
		HIGH	0.8	R/S	0.75	1.07	0	0
<b>TEMPORARY</b>		LOW	0.3				0	0
<b>WATER FEATURE</b>		HIGH	0.8				0	0
<b>TOTALS</b>							<b>27,958</b>	<b>10,355</b>
<b>Special Landscape Areas</b>								
						1.00	0	0
						1.00	0	0
<b>TOTALS</b>							<b>6</b>	<b>0</b>
<b>ETWU TOTAL</b>								<b>291,467.33</b>
<b>(MAXIMUM ALLOWED WATER ALLOWANCE) MAWA</b>								<b>354,132.80</b>

ETAF Calculations		
<b>Regular Landscape Areas</b>		
Total ETAF x area		10,355
Total Area		27,958
<b>Average ETAF</b>		<b>0.37</b>
<b>All Landscape Areas</b>		
Total ETAF x area		10,355
Total Area		27,958
<b>Sitewide ETAF</b>		<b>0.37</b>

20-10-008\_mwelo.xlsx  
WATER EFFICIENT LANDSCAPE

MAWA = Eto X 0.62 [ETAF x LA + (1-ETAF) X SLA]  
ETWU = Eto X 0.62 x ETAF X AREA  
Average ETAF for Regular Landscape Areas must be 0.55 or below for residential areas, and 0.45 or below for non residential areas

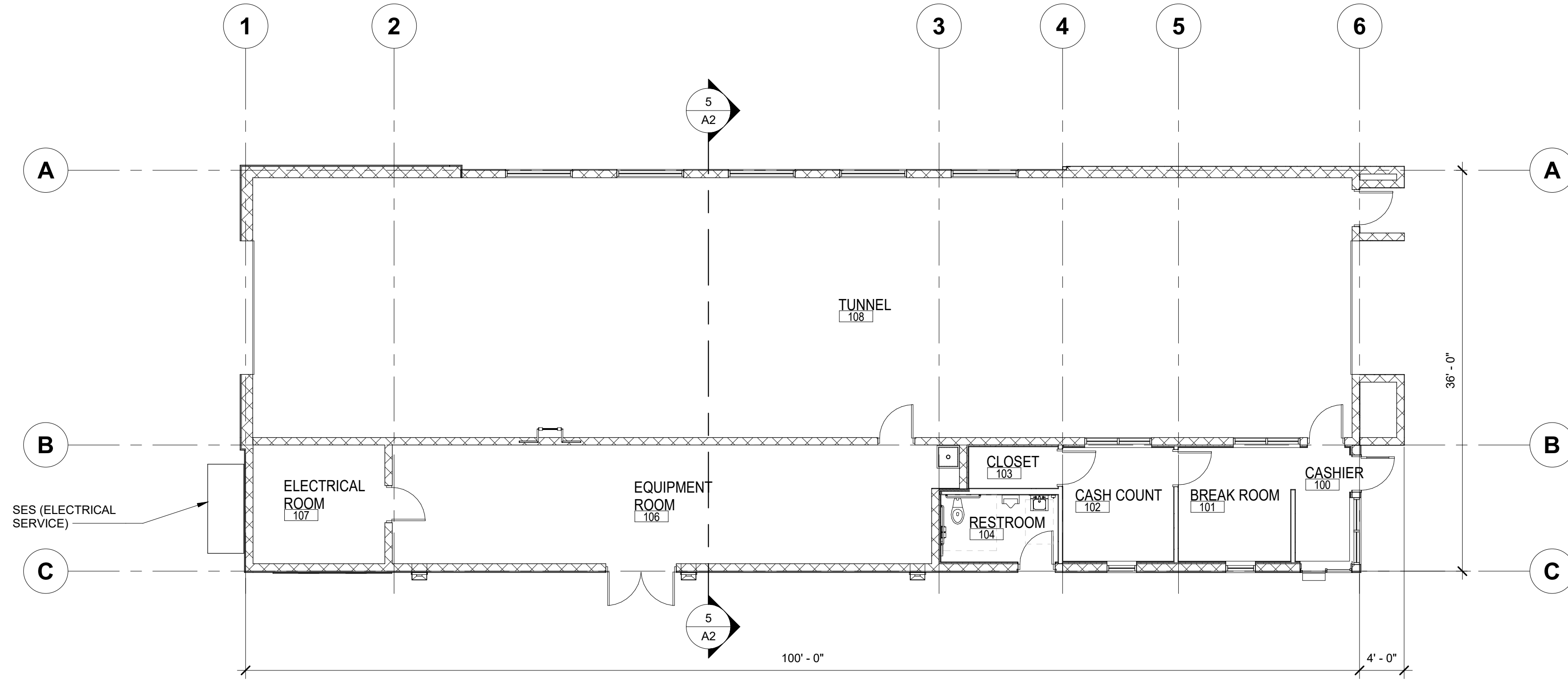
**PROJECT CHECKLIST**

MWEO REQUIRED ITEMS	PRESENT IN PACKAGE		COMMENTS
	YES	NO	
Project Information	X		
Water Efficient Landscape Worksheet	X		
Soil Management report-or noted to be done in construction		X	REQUESTED BY CONTRACTOR DURING CONSTRUCTION
Landscape Design Plan	X		
Irrigation Design Plan	X		
Grading Plan-or noted with Civil Plans		X	NOTED WITH CIVIL PLANS
MWEO calculations are correct:	X		
Correct Eto per location	X		
Correct ETAF for project type (correct Irrigation efficiency)	X		
Hydrozones areas are calculated correctly	X		
MAWA and ETWU formulas and calculations are shown	X		
Special Landscape Areas Present? Approved?		X	
MWEO statements and signatures are present on the planting,irrigation and grading plans.	X		

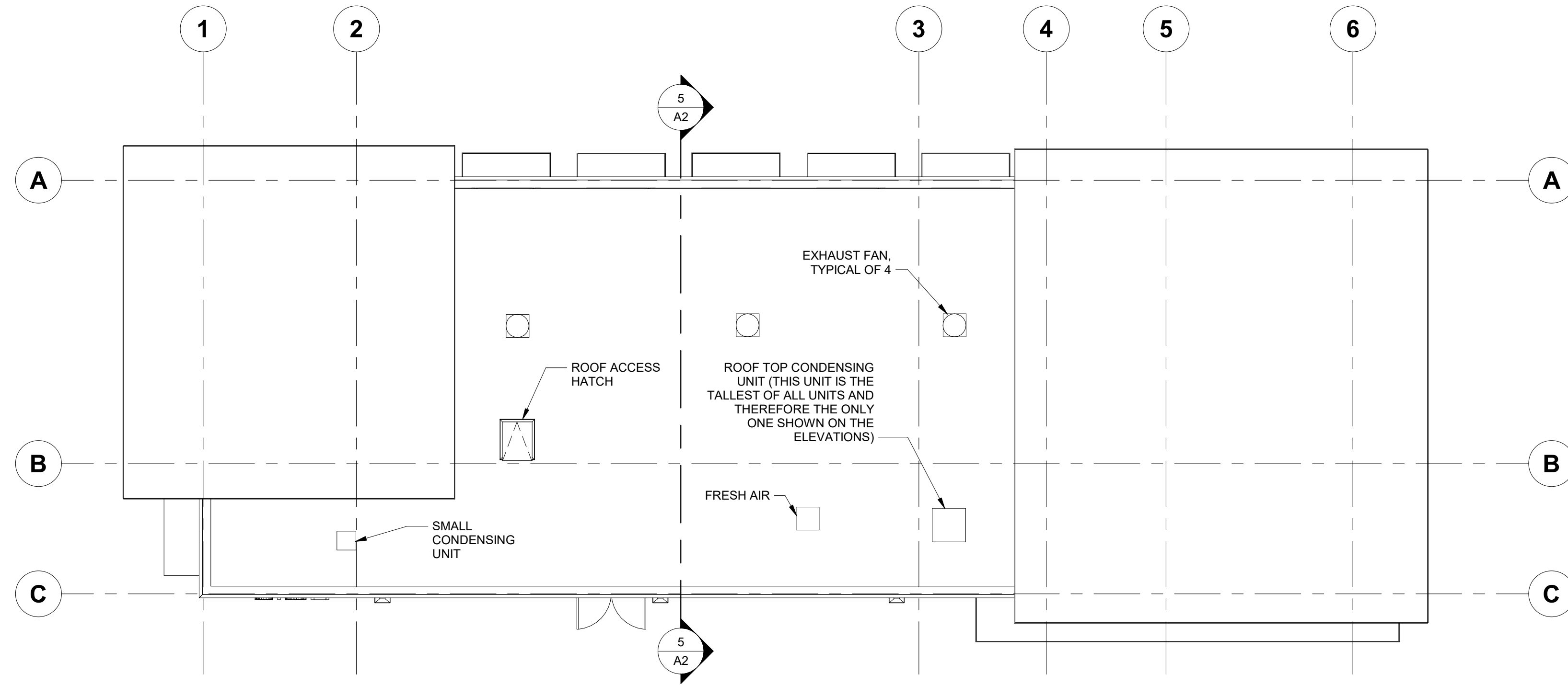
20-10-008\_mwelo.xlsx  
PROJECT CHECKLIST

I HAVE COMPLIED WITH THE CRITERIA OF THE MODEL WATER EFFICIENT LANDSCAPE ORDINANCE AND APPLIED THEM FOR THE EFFICIENT USE OF WATER IN THE LANDSCAPE DESIGN.

05/26/2022  
J. PATRICK BOYD, LLA No. 4681 DATE:



**1 FLOOR PLAN**  
1/8" = 1'-0"



**2 ROOF PLAN**  
1/8" = 1'-0"

**PRELIMINARY  
NOT FOR  
CONSTRUCTION**

STEVE WAKEMAN, ARCHITECT  
2696 S COLORADO BLVD, SUITE 525  
DENVER, CO 80222  
(303) 962-9164

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www.cshqa.com

**BLUEWAVE EXPRESS CAR WASH**  
1160 EAST LELAND ROAD  
PITTSBURG, CA

**CSHOA**

**SCHEMATIC  
DESIGN**

PROJECT 20228.000	DATE 1-25-2022
DRAWN WRS	CHECKED IS

REVISED

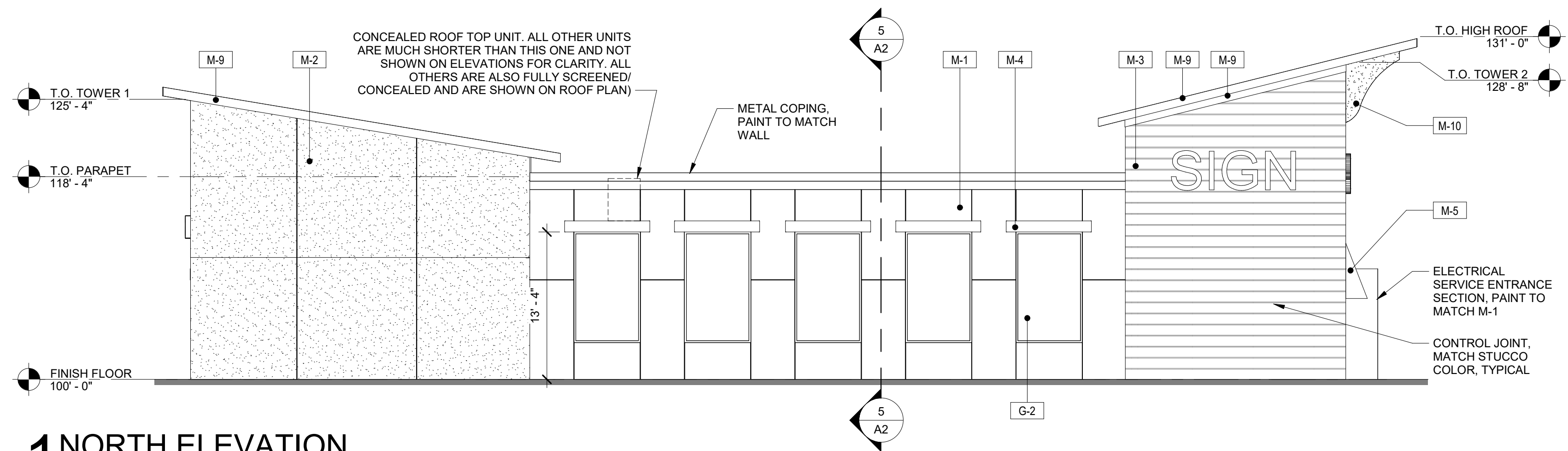
SHEET TITLE

**PLANS**

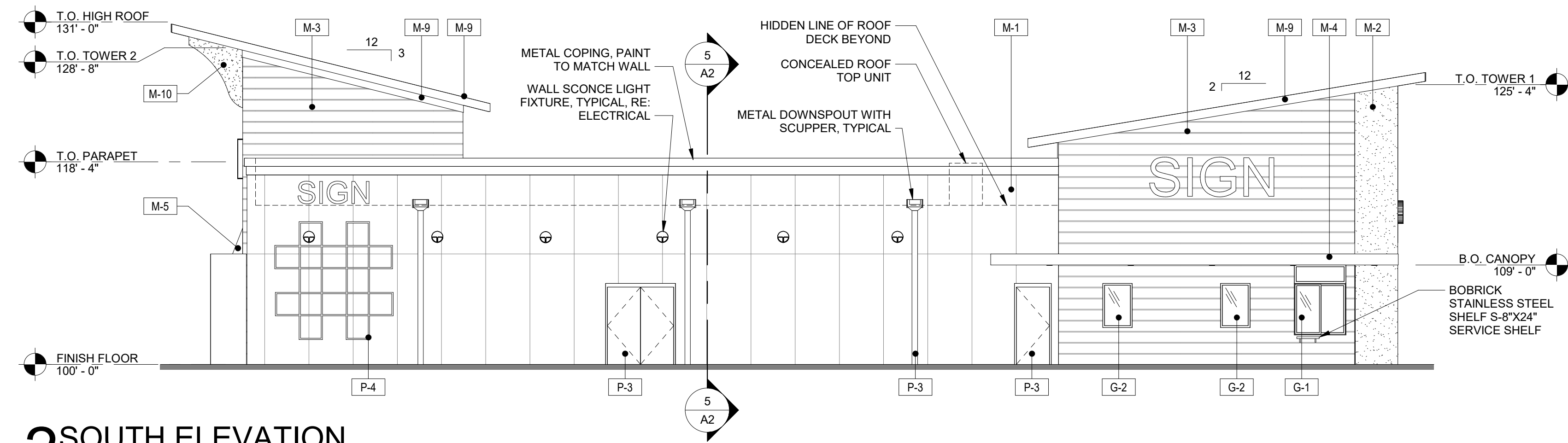
SHEET

**A1**

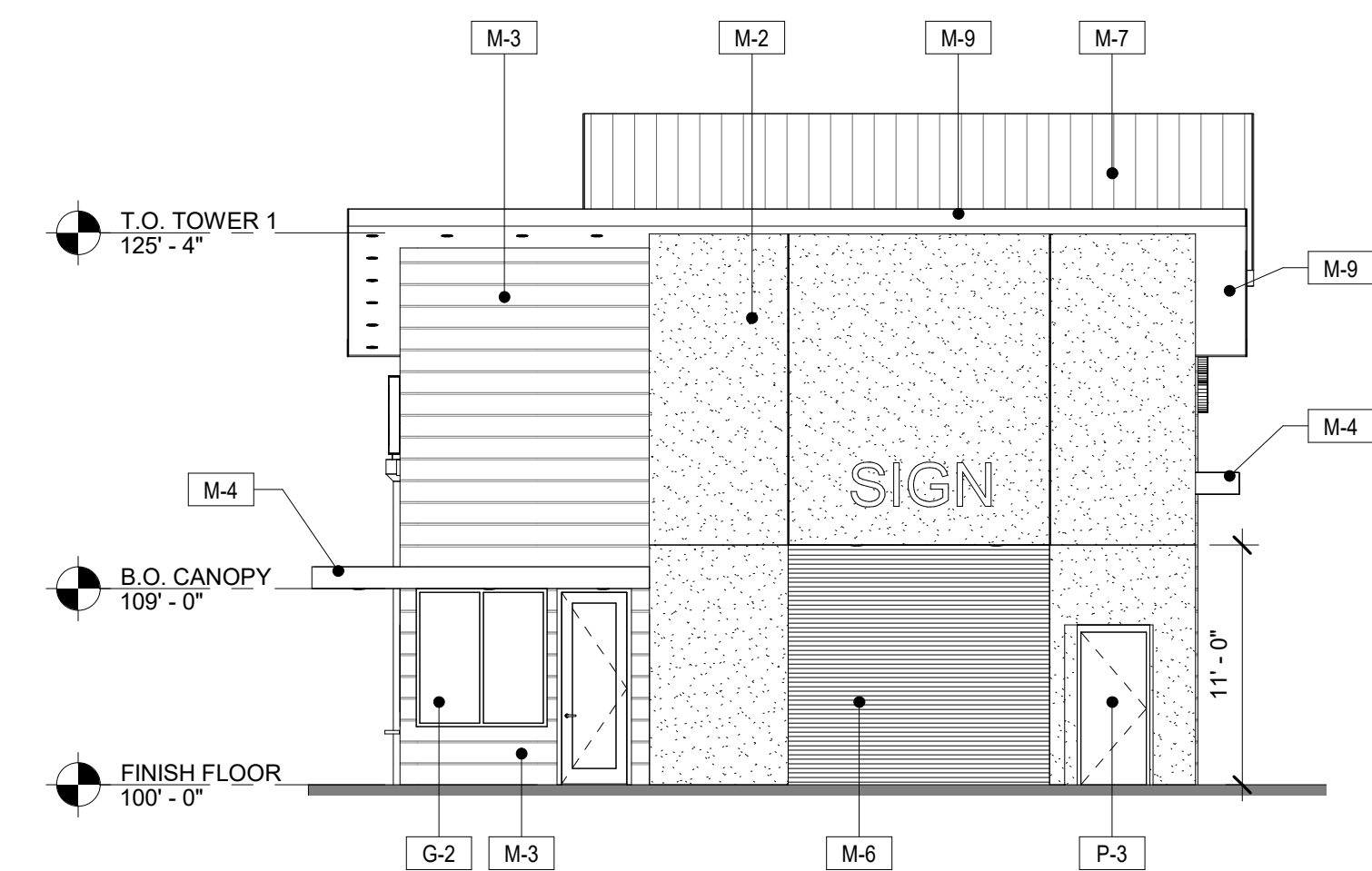
ORIGINAL SHEET SIZE  
24" x 36"



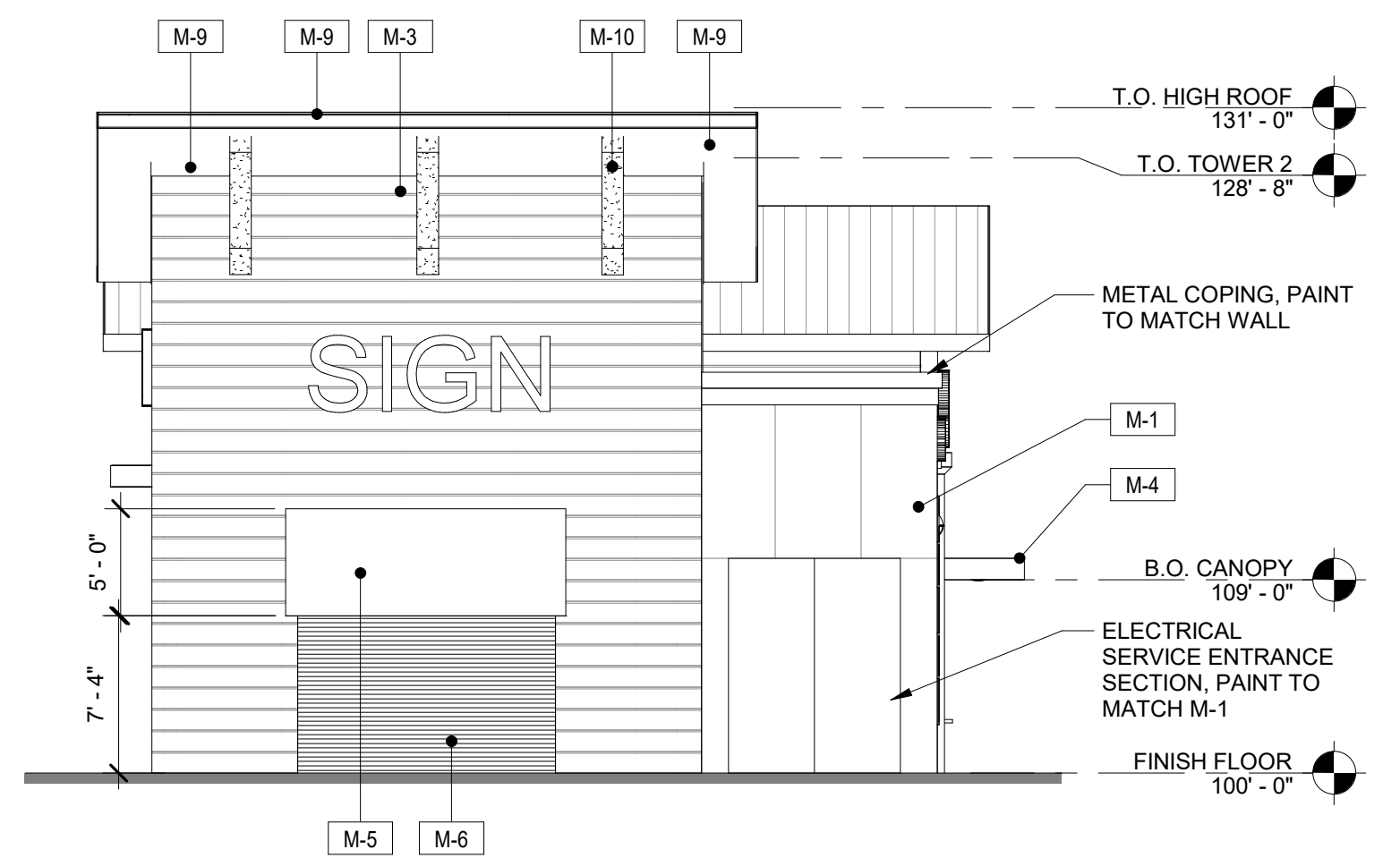
**1 NORTH ELEVATION**  
1/8" = 1'-0"



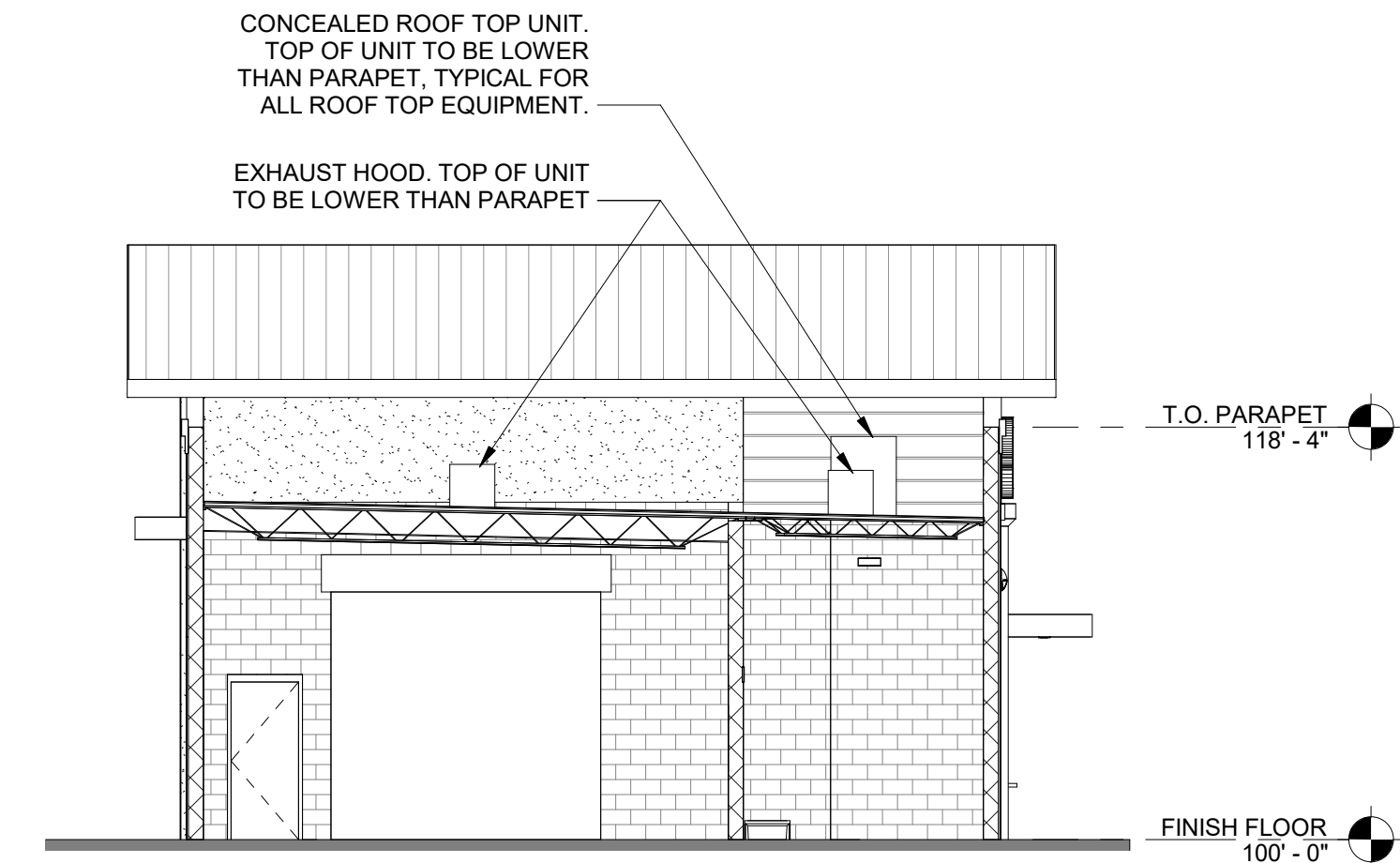
**2 SOUTH ELEVATION**  
1/8" = 1'-0"



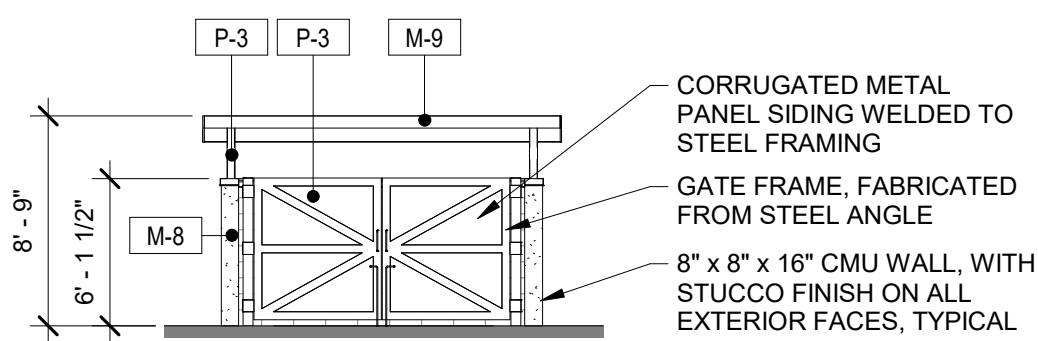
**3 EAST ELEVATION**  
1/8" = 1'-0"



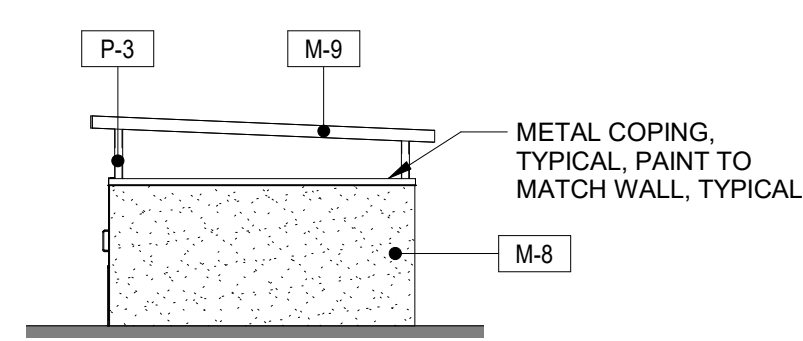
**4 WEST ELEVATION**  
1/8" = 1'-0"



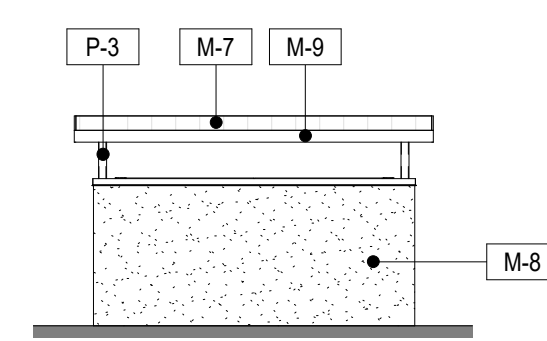
**5 CROSS SECTION**  
1/8" = 1'-0"



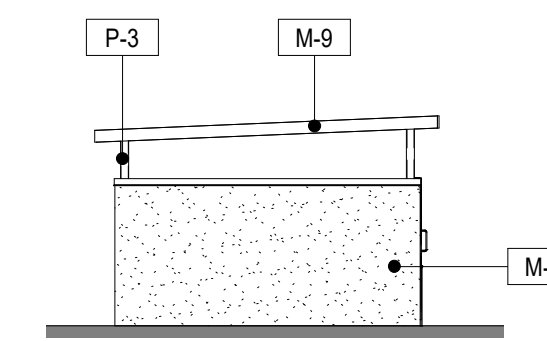
**6 TRASH ENCLOSURE (FRONT)**  
1/8" = 1'-0"



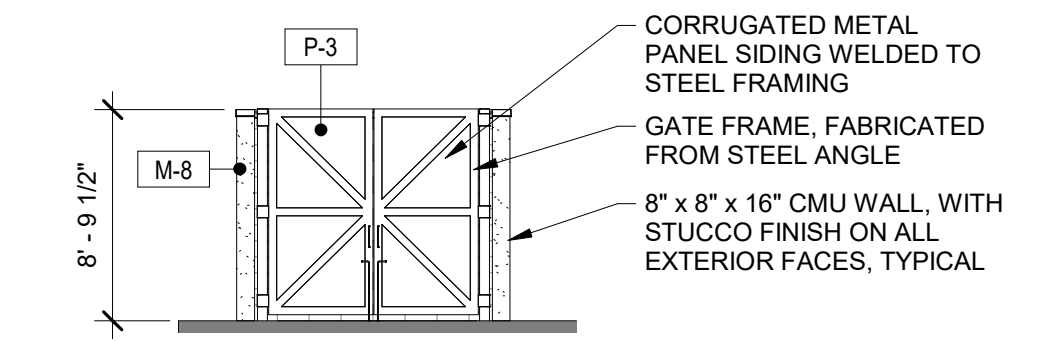
**7 TRASH ENCLOSURE (RIGHT SIDE)**  
1/8" = 1'-0"



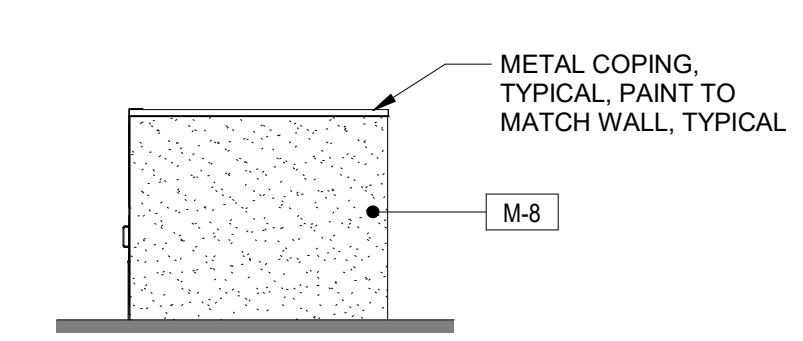
**8 TRASH ENCLOSURE (BACK)**  
1/8" = 1'-0"



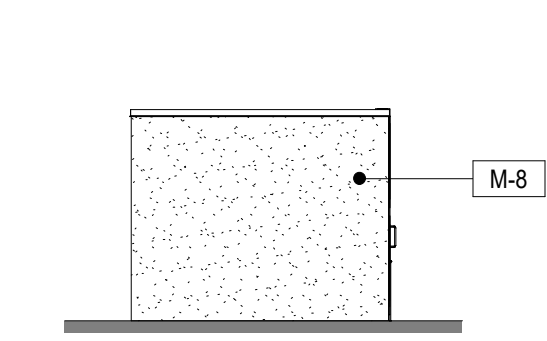
**9 TRASH ENCLOSURE (LEFT SIDE)**  
1/8" = 1'-0"



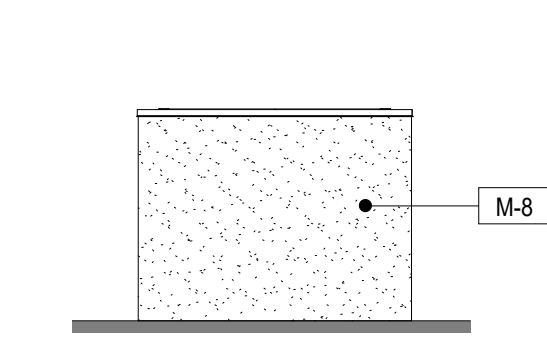
**10 VACUUM ENCLOSURE (FRONT)**  
1/8" = 1'-0"



**11 VACUUM ENCLOSURE (RIGHT SIDE)**  
1/8" = 1'-0"



**12 VACUUM ENCLOSURE (BACK SIDE)**  
1/8" = 1'-0"



**13 VACUUM ENCLOSURE (LEFT SIDE)**  
1/8" = 1'-0"

MATERIAL AND FINISH SCHEDULE				
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M-1	SW 7006 - EXTRA WHITE	HARDIE PANEL - 4x10' - WITH 1" EXTRUDED CLEAR ANODIZED ALUMINUM CHANNEL	JAMES HARDIE SIDING	APPLY ON MEATAL FURRING STRIPS
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M-3	SW 9179 - ANCHORS AWEIGH	HARDIE PLANK/LAP SIDING	JAMES HARDIE SIDING	APPLY ON MEATAL FURRING STRIPS
M-4	CLEAR ANODIZED ALUMINUM	ALUMINUM	AVADEK	FRONT CANOPY AND REAR CANOPY
M-5	COOLEY BRITE CBL5 NAVY BLUE	CLOTH/VINYL ON METAL FRAME	COOLEY BRITE ON PAINTED METAL FRAME TO MATCH	METAL FRAME WILL BE WRAPPED WITH COOLEY BRITE CLOTH/VINYL MATERIAL
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M-7	BERRIDGE MATTE BLACK	BERRIDGE STEEL - 1.5" STANDING SEAM METAL ROOF	BERRIDGE STEEL	
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P-4	SW 9179 - ANCHORS AWEIGH	ANCHORS AWEIGH	SHERWIN WILLIAMS	METAL TRELLIS

BLUEWAVE EXPRESS CAR WASH  
1160 EAST LELAND ROAD  
PITTSBURG, CA

CSHOA

SCHEMATIC DESIGN

PROJECT 20228.000 DATE 1-25-2022  
DRAWN WRS CHECKED IS

SHEET TITLE BUILDING ELEVATIONS

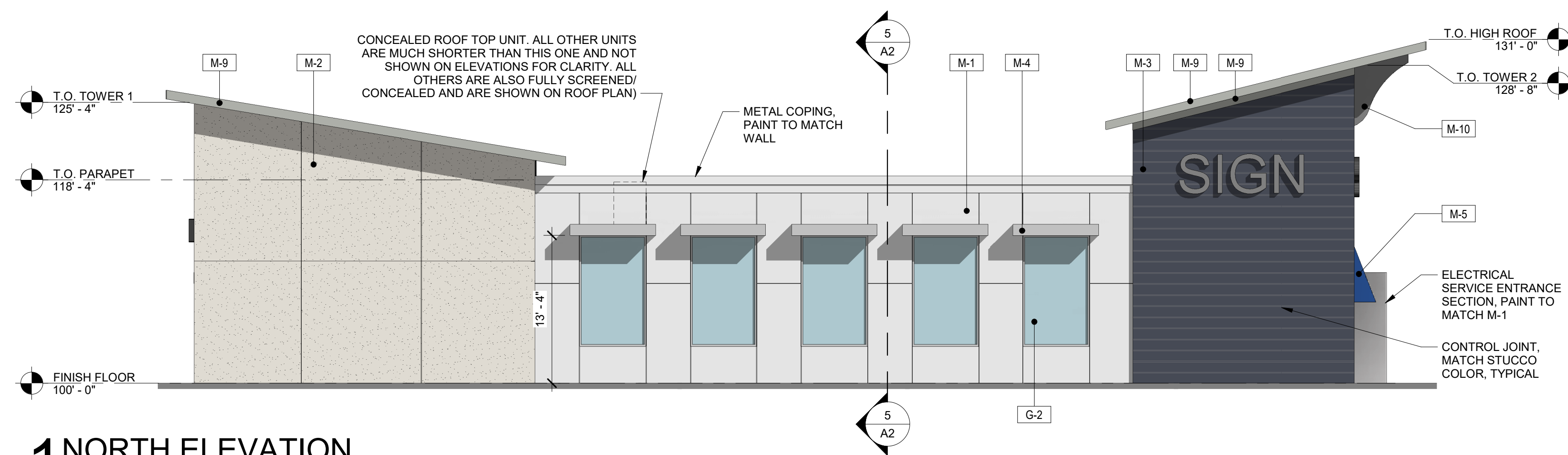
SHEET

A2  
ORIGINAL SHEET SIZE 24" x 36"

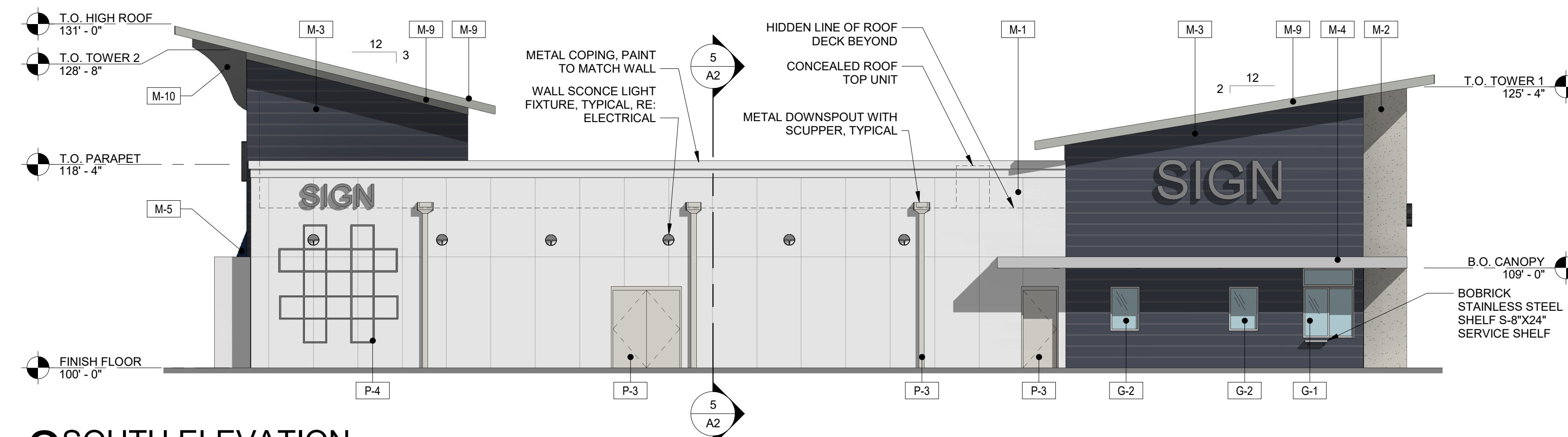
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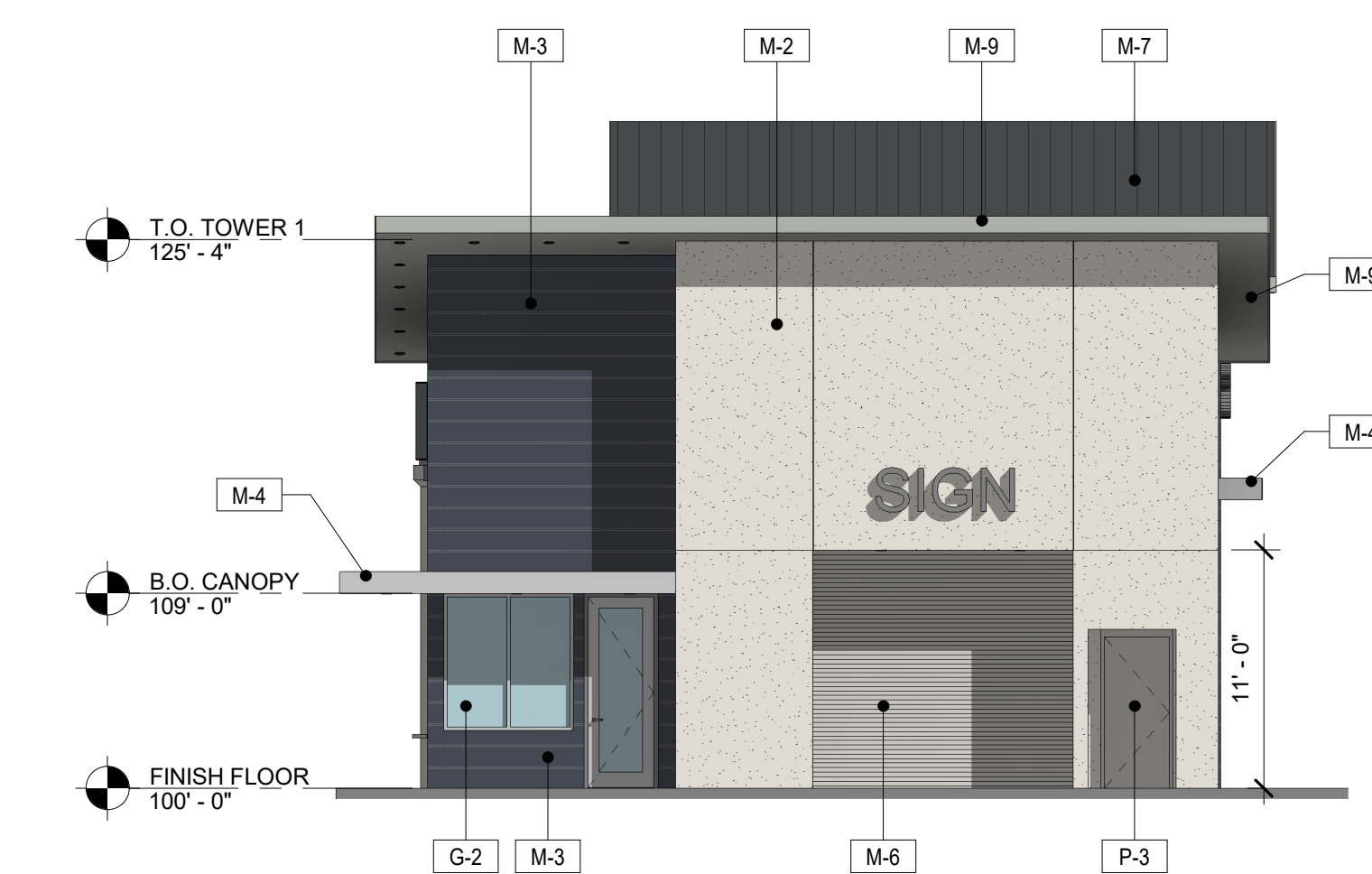
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NOT FOR  
CONSTRUCTION



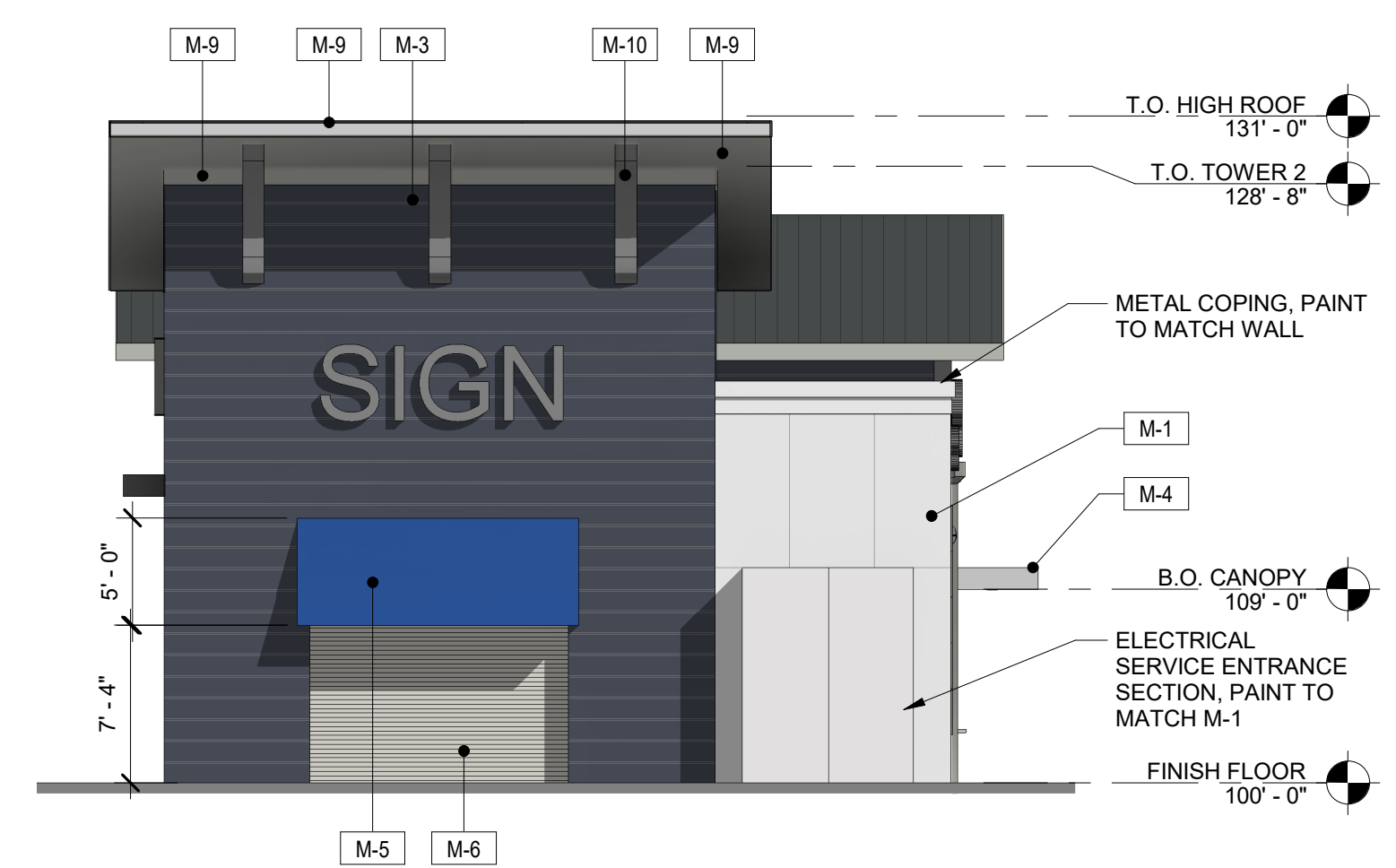
**1 NORTH ELEVATION**  
1/8" = 1'-0"



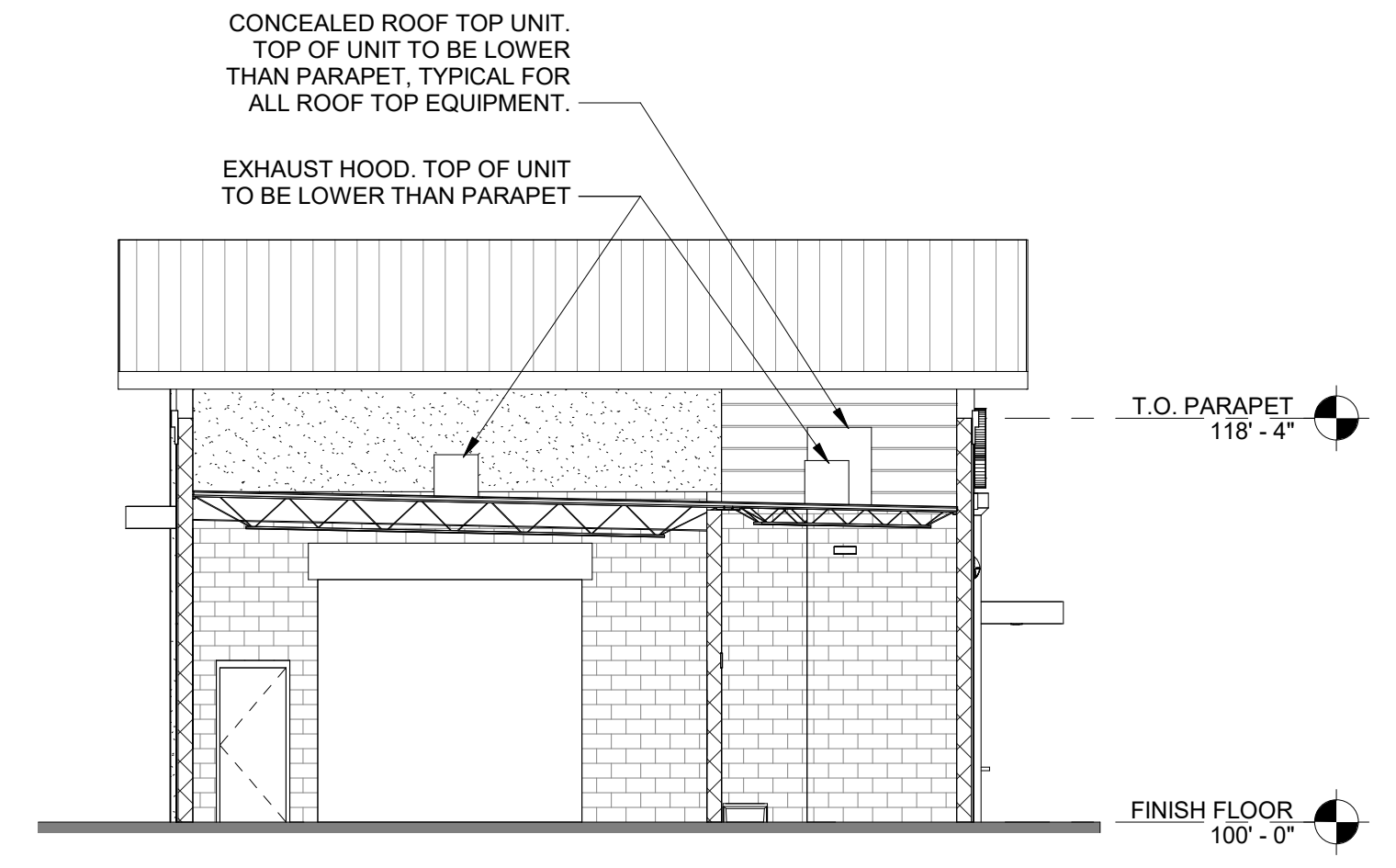
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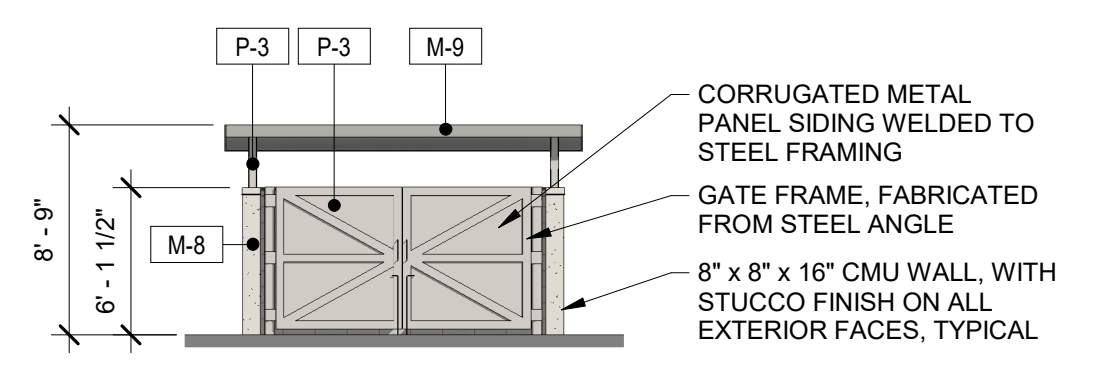
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1/8" = 1'-0"



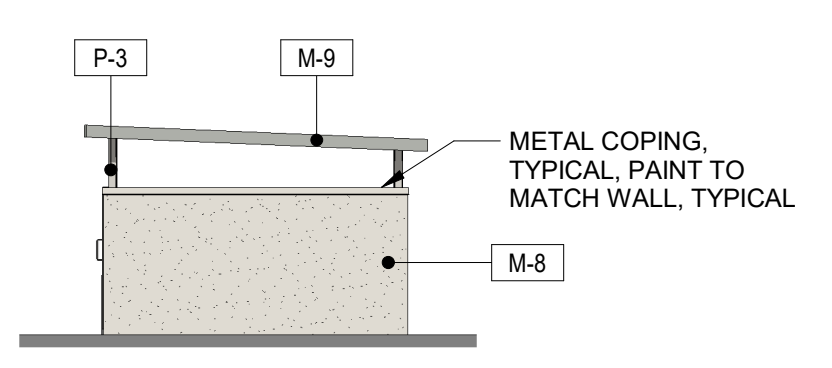
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1/8" = 1'-0"



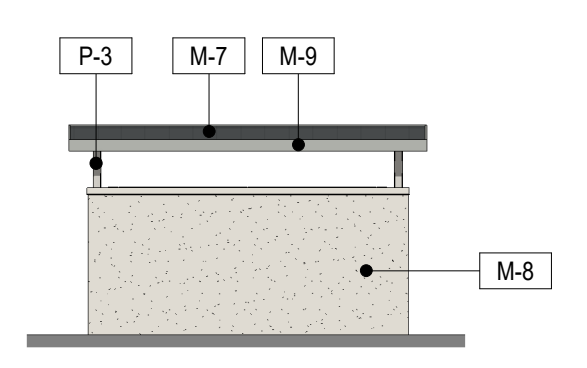
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1/8" = 1'-0"



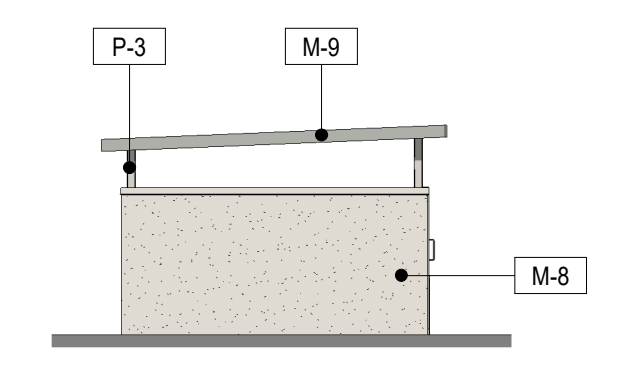
**6 TRASH ENCLOSURE (FRONT)**  
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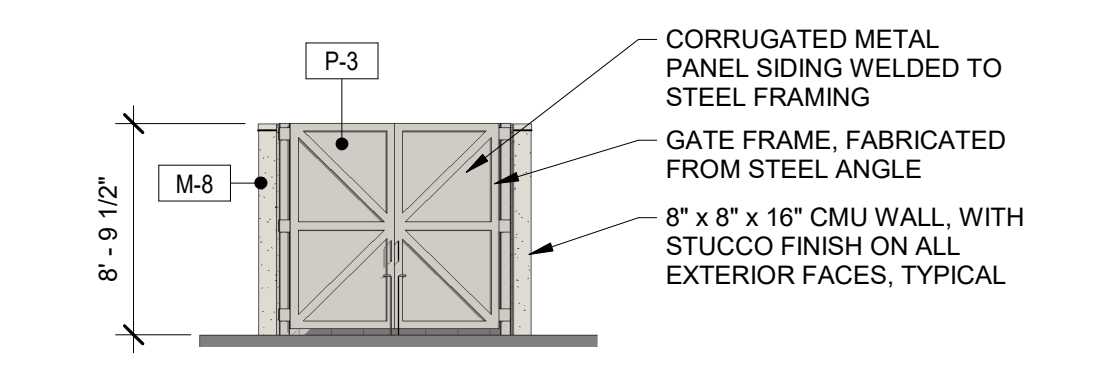
**7 TRASH ENCLOSURE (RIGHT SIDE)**  
1/8" = 1'-0"



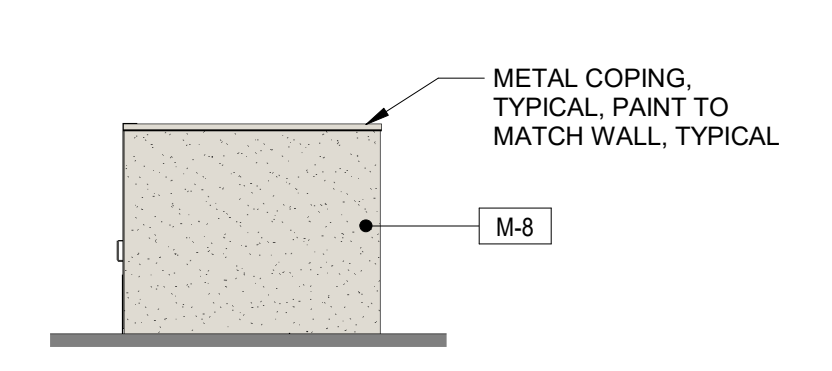
**8 TRASH ENCLOSURE (BACK)**  
1/8" = 1'-0"



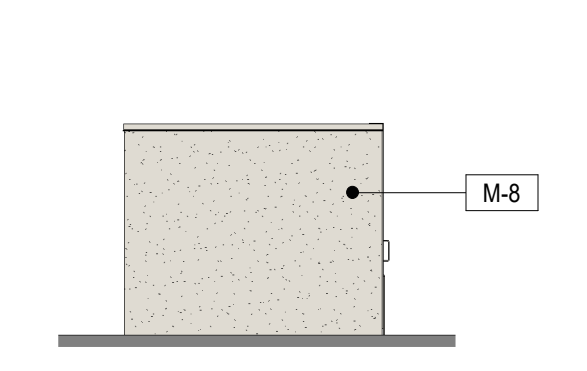
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1/8" = 1'-0"



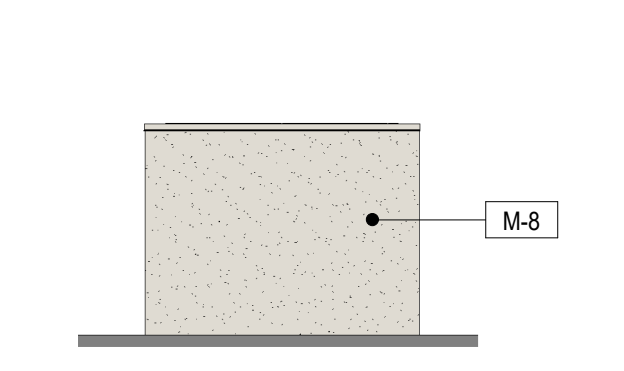
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**PRELIMINARY NOT FOR CONSTRUCTION**

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**CSHOA**

**SCHEMATIC DESIGN**

PROJECT 20228.000	DATE 1-25-2022
DRAWN WRS	CHECKED IS
REVISED	

SHEET TITLE  
**BUILDING ELEVATIONS**

SHEET  
**A2**  
ORIGINAL SHEET SIZE  
24" x 36"



65 Civic Avenue  
Pittsburg, CA 94565  
P: (925) 252-6900  
F: (925) 252-4814

[pittsburgca.gov](http://pittsburgca.gov)

## Community and Economic Development Department – Planning Division

### NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the **PLANNING COMMISSION** of the City of Pittsburg will conduct a public hearing on:

**DATE:** June 9, 2026  
**TIME:** 7:00 P.M.  
**PLACE:** City Council Chamber at City Hall  
65 Civic Avenue, Pittsburg, California

Concerning the following matter:

**BlueWave Car Wash Time Extension; AP-21-1562 (UP, DR):** This is a Public Hearing Notice for a time extension request for the BlueWave Car Wash Project. The applicant is requesting a three-year time extension of approval of a Use Permit and Design Review to construct an automobile washing facility. The approved facility would provide a total of 26 parking spaces and would include a 100-foot drive-through vehicle wash tunnel; three 12.5-foot drive-through pay lanes; three drive-through payment stations; 22 vacuum stalls (two Americans with Disabilities Act [ADA] accessible); and paved driveways. Paved surfaces would total 43,971 square feet. The project is located at 1160 E. Leland Road, Pittsburg, CA. Assessor's Parcel No. 088-230-028.

**Environmental Determination:**

The project is subject to the California Environmental Quality Act (CEQA), and the State CEQA Guidelines (Public Resources Code Section 21080). Pursuant to the provisions in the State CEQA Guidelines, an Initial Study was prepared for the Project. Based on the analysis in the study, it was determined that potentially significant impacts of the project could be lessened through specified mitigations, and subsequently, a Mitigated Negative Declaration was prepared. On August 12, 2022, a Notice of Intent to Adopt a Mitigated Negative Declaration (NOI) was distributed for a 30-day public review, in accordance with CEQA Guidelines Section 15105(b). Public distribution of the NOI consisted of delivery to the County Clerk's Office, posting on the City's website, and direct mailing to all interested parties and owners/occupants of the properties directly contiguous with the project, in accordance with CEQA Guidelines section 15072. Following Planning Commission and City Council approval of the proposed Project, a Notice of Determination was filed under SCH No. 2022080293.

**PROJECT PLANNER:** Kelsey Gunter, (925) 252-4824 or [kgunter@pittsburgca.gov](mailto:kgunter@pittsburgca.gov)

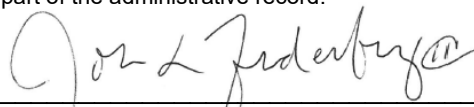
**Why am I receiving this notice?**

You are receiving this notice because you have either previously requested notifications from the Planning Division, or a project has been proposed in your neighborhood and all property owners within a minimum 300-foot radius of the project site are required to be notified under the Pittsburg Municipal Code.

**Where can I get more information about this project? What can I do if I have comments on the project?**

The complete file for this project is available for public inspection; please contact the project planner listed above to make necessary arrangements. Comments or objections to the project can be made by writing or through e-mailed testimony prior to the meeting or provided orally during the meeting. Written comments citing the project name may be emailed to the project planner listed above or may be mailed or delivered to Pittsburg Planning Division, 65 Civic Avenue, Pittsburg, CA 94565. Pursuant to Section 65009 of the California Government Code, if you challenge this matter in court, you may be limited to those issues you or someone else raised at the public hearing described in this notice, or in written correspondence on the matter delivered to this agency at, or prior to the public hearing. Any written correspondence delivered to the Planning Division before the hearing body's action on the matter will become a part of the administrative record.

*Para información en  
español:  
(925) 252-4920*

  
JOHN FUNDERBURG, SECRETARY  
PITTSBURG PLANNING COMMISSION

**Project Title:** BlueWave Car Wash Time Extension  
**Location:** 1160 E. Leland Road, Pittsburg, CA 94565



City of Pittsburg

Community and Economic Development Department -  
Planning Division  
65 Civic Avenue  
Pittsburg, CA 94565



## NOTICE OF PUBLIC HEARING

**FERGUSON LAW PC**

SAM FERGUSON

1816 FIFTH STREET, BERKELEY, CA • (510) 548-9005 • SAM@FERGUSONLAWPC.COM

April 27, 2026

**VIA EMAIL AND U.S. MAIL:**

Chair and Members of the Planning Commission

C/O Kelsey Gunter, Associate Planner

*KGunter@pittsburgca.gov*

City of Pittsburg

65 Civic Avenue

Pittsburg, CA 94565

**Re: Objection to Request for Time Extension of Use Permit and Design Review  
Entitlements for Blue Wave Car Wash, 1160 East Leland Road (AP-21-1561);  
Planning Commission Hearing, April 28, 2026**

Dear Chair and Members of the Planning Commission:

This firm represents E. Leland Road Associates, LLC (“ELRA”), the owner of the parcel located at 1150 East Leland Road, Pittsburg, California, and its tenant, Total Renal Care, Inc. (“DaVita”), which operates the Delta View Center dialysis clinic at that location. The Delta View Center cares for approximately 105 patients with end-stage renal disease, an advanced stage of kidney failure during which the kidneys have lost nearly all of their functions. Patients with end-stage renal disease depend upon three weekly dialysis sessions for life-sustaining treatment.

We write on behalf of our clients to formally object to the Request for Extension of Entitlements submitted by BW E Leland Pittsburg LLC (“Blue Wave”) on January 29, 2026, which is scheduled for consideration by the Planning Commission on April 28, 2026. Contrary to Blue Wave’s representations in its January 29, 2026 request for an extension that it has “collaboratively” worked with its neighbors, our clients have found their requests for design modifications have fallen on deaf ears. Blue Wave’s proposed design, as currently configured, threatens patient safety by overburdening a shared driveway and causing delays in patient access to the clinic. It is also against the terms of the Easement between the parcels. Blue Wave’s unreasonable design is a matter of utmost concern to our clients, as receiving less than fully-prescribed dialysis treatment can lead to serious negative health consequences, including hospitalization or death.

Our clients ask that the extension not be granted, or that it be granted only if Blue Wave makes modifications to its site plan to include a new and exclusive curb cutout for its patrons so that car wash traffic is directed away from the Delta View Center in a manner that does not threaten patient safety and emergency access.

We respectfully request that this letter, together with the pleadings and papers enclosed herewith, be made part of the administrative record for the April 28, 2026 hearing.

## **I. Blue Wave’s Extension Request Mischaracterizes Its Relationship with Adjacent Property Owners**

Blue Wave’s January 29, 2026 extension request states that its “project team has worked collaboratively with adjacent property owners to address site access, boundary conditions, and operational interface considerations,” and that “[t]hese efforts required design revisions and supplemental review to ensure compatibility with neighboring uses and to mitigate potential off-site impacts.” In our view, that representation does not accurately describe Blue Wave’s relationship with ELRA and DaVita, the immediately adjacent owner and occupant of 1150 East Leland Road. Blue Wave never reached out to our clients before seeking a use permit and zoning overlay.

ELRA and DaVita have been compelled to file suit against Blue Wave to protect their property rights and the safety of DaVita’s patients. On June 20, 2025, ELRA and DaVita filed a Verified Complaint for Declaratory Relief and Permanent Injunction against BW E Leland Pittsburg LLC in the Superior Court of the State of California, County of Contra Costa, Case No. C25-01748. That action remains pending; a trial adjudicating the unreasonable burden Blue Wave’s operations will place on the operations of the DaVita Delta View Center is likely to take place in early 2027.

Importantly, Associate Planner Kelsey Gunter noted in an April 21, 2026 email to the undersigned: “The applicant is not proposing any revisions to the site plan as part of this request and has not submitted an updated site plan to the Planning Division.” Blue Wave’s reference to “design revisions” undertaken to accommodate adjacent owners in its application to the Planning Commission does not include any revisions made to address our clients’ serious concerns, if there are any at all.

## **II. The Approved Site Plan Unreasonably Burdens the Shared Easement and Endangers Dialysis Patient Access**

The Blue Wave project site and the Delta View Center parcel are subject to a Declaration of Easements, Covenants, Conditions and Restrictions recorded April 6, 2010, which grants a reciprocal easement for “reasonable access, ingress and egress” over the driveway and common areas shared by the two parcels. The Easement further prohibits uses that “unreasonably interfere with, obstruct or delay the conduct and operations of the business of any other Owner or its Permittees” (among other prohibited uses that could be applied here). It is our understanding that this Easement was not provided to the Planning Commission in Blue Wave’s original request for a zoning variance. It is included herewith as an exhibit to our Complaint, attached as Exhibit 1.

The approved Blue Wave site plan — which Blue Wave now seeks to carry forward for another three years without modification — would route substantial car wash traffic through the shared driveway that serves as the sole means of ingress and egress for the Delta View Center’s dialysis patients. Blue Wave’s own traffic study — dated July 28, 2021, and performed by W-Trans — projects, at page 2, traffic of approximately 55 vehicles per hour during peak times (110 trips per hour), and the site plan introduces three new intersections on the shared Easement. As set

forth in the declarations of our clients' witnesses enclosed herewith, this traffic volume and configuration will:

- Create hazardous conditions for non-ambulatory dialysis patients who travel the driveway on foot, by wheelchair, and with walkers to reach the dialysis center;
- Cause delays in patient arrival that risk disrupting the rigid "chair time" schedule on which life-sustaining dialysis treatment depends;
- Compromise emergency-vehicle access to a facility that receives regular emergency calls due to the medically fragile patient population it serves; and
- Convert a shared driveway into a street-like thoroughfare fundamentally inconsistent with the terms and purpose of the recorded Easement.

These concerns are detailed at length in the Verified Complaint, the preliminary injunction briefing, and the supporting declarations of Clinton Johnson (Facility Administrator of the Delta View Center), Grant Johnson (traffic engineer), and Yochai Kidron (principal of ELRA), all of which are enclosed with this letter.

Additionally, we do not believe that Blue Wave has provided sufficient information to the City to evaluate the likely traffic impacts of its site plan. The July 28, 2021 traffic study by W-Trans submitted by Blue Wave with its original request for a use permit and zoning overlay does not mention or account for existing traffic from the Delta View Center. It only analyzed traffic from Blue Wave's patrons. The traffic study thus does not appropriately consider the full traffic impact that the car wash will have on the existing driveway, potential spillover onto East Leland Road, emergency access, or whether the driveway (which is part of the circulation path for the car wash) can in fact accommodate Blue Wave's proposed use.

### **III. A Straightforward Design Modification Would Resolve Our Clients' Concerns**

While our clients' position has always been that the Easement does not permit a car wash on the adjoining parcel,<sup>1</sup> our clients' objection is not to the existence of a car wash at 1160 East Leland Road as such. It is to the routing of that car wash's substantial traffic through a driveway shared with a dialysis clinic. That concern could be resolved by a single and simple design change: directing Blue Wave's car wash traffic through a new curb cutout on East Leland Road that exclusively serves the Blue Wave parcel, so that car wash patrons do not share ingress and egress with Delta View Center patients, teammates, visitors, deliveries, and emergency vehicles.

ELRA and DaVita previously proposed precisely such an alternative. In early 2025, counsel for ELRA, along with representatives of ELRA and DaVita, met with City of Pittsburg planning staff and presented a plan providing for a new entry and exit onto East Leland Road that would have routed car wash traffic away from the shared driveway. City planners were receptive

---

<sup>1</sup> The Easement prohibits a number of vehicle-related uses on the adjoining parcel, including the leasing and sale of automobiles. While a car wash is not specifically prohibited, Pittsburg zoning regulations in existence at the time the Easement was entered did not permit a car wash — which is exactly why Blue Wave had to apply for a zoning overlay in the first place. The intent of the Easement was to prohibit traffic-heavy uses on the parcel adjoining the Delta View Center.

and encouraged the parties to meet jointly to develop an agreed solution. Despite follow-up efforts by our clients, Blue Wave declined to adopt this approach, and the parties have been in active litigation since June 2025.

#### **IV. Requested Relief**

For the foregoing reasons, ELRA and DaVita respectfully request that the Planning Commission:

1. Deny Blue Wave's request for a three-year extension of the Use Permit and Design Review entitlements as currently approved; or, in the alternative,
2. Condition any extension on Blue Wave's submission of a revised site plan that directs car wash traffic through a new curb cutout on East Leland Road serving the Blue Wave parcel only, such that car wash traffic does not share ingress and egress with the Delta View Center over the shared reciprocal Easement; and
3. Continue the hearing as necessary to allow Blue Wave to engage in the good-faith coordination with adjacent property owners that its extension request erroneously represents has already occurred.

We thank the Commission for its consideration and for the opportunity to be heard. We or our clients plan to appear at the April 28, 2026 hearing and will be prepared to address any questions the Commission may have.

Respectfully submitted,

FERGUSON LAW PC

/s/ Sam Ferguson

Sam Ferguson

#### **Enclosures (Exhibits):**

- Ex. 1 Verified Complaint for Declaratory Relief and Permanent Injunction (filed June 20, 2025)
- Ex. 2 Notice of Motion and Motion for Preliminary Injunction
- Ex. 3 Declaration of Clinton Johnson in Support of Application for Temporary Restraining Order and Preliminary Injunction
- Ex. 4 Declaration of Grant Johnson in Support of Plaintiffs' Application for Temporary Restraining Order, Preliminary and Permanent Injunction
- Ex. 5 Declaration of Yochai Kidron in Support of Application for Temporary Restraining Order
- Ex. 6 Reply in Support of Motion for Preliminary Injunction
- Ex. 7 Supplemental Declaration of Clinton Johnson in Support of Motion for Preliminary Injunction

Pittsburg Planning Commission

4/27/26

Page 5 of 5

Ex. 8 Supplemental Declaration of Grant Johnson in Support of Motion for Preliminary Injunction

Ex. 9 Declaration of Sam Ferguson in Support of Motion for Preliminary Injunction

# **EXHIBIT 1**

## **VERIFIED COMPLAINT FOR DECLARATORY RELIEF AND PERMANENT INJUNCTION**

1 Sam Ferguson (270957)  
sam@fergusonlawpc.com  
2 Katharine Kates (155534)  
katharine@fergusonlawpc.com  
3 FERGUSON LAW PC  
1816 5<sup>TH</sup> Street  
4 Berkeley, CA 94710  
Tel.: (510) 548-9005

5 William Berland (43879)  
bill@fergusonberland.com  
6 FERGUSON & BERLAND  
7 1816 5<sup>TH</sup> Street  
Berkeley, CA 94710  
8 Tel.: (510) 548-9005

9 Noah Berland (227018)  
noah@ndblaw.com  
10 1816 5<sup>th</sup> Street  
Berkeley, CA 94710  
11 Tel.: (510) 548-9005

Per local Rule, This case is assigned to  
Judge Douglas, Danielle K, for all purposes.

12 Attorneys for Plaintiffs  
E. Leland Road Associates, LLC and Total Renal Care, Inc.

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 COUNTY OF CONTRA COSTA

15 E. LELAND ROAD ASSOCIATES,  
16 LLC, a California Limited-Liability  
17 Company, and TOTAL RENAL CARE,  
INC.,

18 Plaintiffs,

19 v.

20 BW E LELAND PITTSBURG LLC

21 Defendant.

Case No. C25-01748

**VERIFIED COMPLAINT FOR  
DECLARATORY RELIEF AND  
PERMANENT INJUNCTION**

**SUMMONS ISSUED**

1 1. Plaintiffs E. Leland Road Associates, LLC and TOTAL RENAL CARE, INC., a  
2 wholly owned subsidiary of DaVita, Inc., (“Davita”), bring this action for declaratory relief and  
3 permanent injunction against BW E LELAND PITTSBURG LLC, (referred to herein as “Blue  
4 Wave”) seeking to bar the construction and operation of a car wash on a currently empty parcel at  
5 1160 E. Leland Road in Pittsburg, CA (“Parcel A”).

6 2. DaVita leases the parcel at 1150 E. Leland Road (“Parcel B”) from Plaintiff E.  
7 Leland Road Associates for the operation of a dialysis facility. Parcel B shares a driveway and  
8 common area with the adjoining Parcel A. Parcels A and B are subject to a Declaration of  
9 Easements, Covenants, Conditions and Restrictions recorded on April 6, 2010 (the “Easement”).  
10 Blue Wave has proposed building a car wash on Parcel A, a use that would unreasonably interfere  
11 with Plaintiffs’ use rights under the Easement and constitutes a breach of the terms of the  
12 Easement.

13 3. Plaintiffs bring this action to obtain a judicial declaration that use of Parcel A as a  
14 car wash will unreasonably interfere with Plaintiffs’ rights under the Easement, breaches the  
15 terms of the Easement, and to enjoin Blue Wave from constructing the car wash on Parcel A or  
16 using Parcel A as a car wash.

### 17 **PARTIES**

18 4. Plaintiff E. Leland Road Associates, LLC is the owner of Parcel B.

19 5. Plaintiff DaVita owns and operates a dialysis center on Parcel B, known as the  
20 Delta View Dialysis Center (the “Delta View Center”). DaVita is a tenant of E. Leland Road  
21 Associates, LLC.

22 6. Blue Wave is the owner of the parcel at 1160 E. Leland Road in Pittsburg, CA.  
23 This parcel is known as “Parcel A.”  
24  
25

1 7. Blue Wave has proposed building and operating a 3600 square foot car wash on  
2 Parcel A.

3 **JURISDICTION AND VENUE**

4 8. This Court has jurisdiction over this action pursuant to Code of Civil Procedure  
5 section 410.10. Defendants have conducted business in California, and specifically in the City of  
6 Pittsburg and County of Contra Costa.

7 9. Venue is proper in this court pursuant to Code of Civil Procedure sections 395 and  
8 395.5. Defendants contracted to refrain from engaging in certain activities over the shared  
9 easement as well as on the parcel located at 1160 E. Leland Road in Pittsburg, CA, in the county  
10 of Contra Costa.

11 **FACTUAL BACKGROUND**

12 10. On April 6, 2010, Pittsburg Leland Group, L.P. recorded a “Declaration of  
13 Easements, Covenants, Conditions and Restrictions” (the “Easement”) governing two parcels on  
14 East Leland Road in Pittsburg, CA. A true and correct copy of the Easement is attached hereto as  
15 Exhibit 1.

16 11. The Easement governs two parcels: Parcel B, located at 1150 East Leland Road;  
17 and Parcel A, located at 1160 East Leland Road.

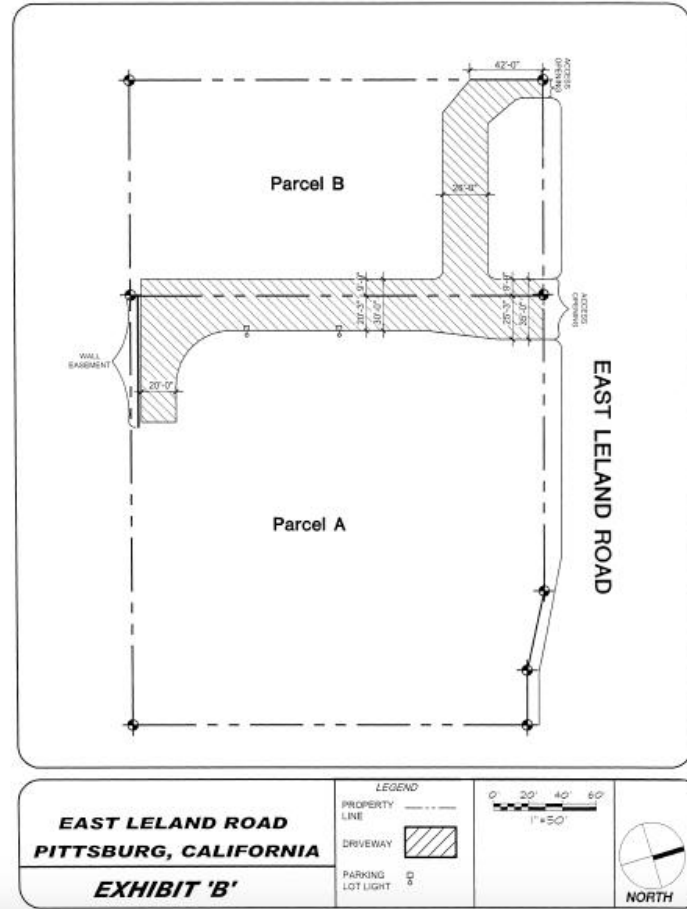
18 12. Plaintiff E. Leland Road Associates is the current owner of Parcel B. Pursuant to  
19 the Easement, E. Leland Road Associates is an “Owner.” Ex. 1 at §1(a).

20 13. DaVita leases Parcel B and currently operates a dialysis center on the property, the  
21 Delta View Center. Pursuant to the Easement, DaVita is a “Permittee.” Ex. 1 at §1(c).

22 14. Parcel A is currently vacant. Defendant has proposed building a Blue Wave  
23 Express Car Wash on the parcel, utilizing a shared driveway that runs north/south between the  
24 parcels, as well as a shared common area that is an offshoot of that driveway that runs east-west

25

1 off the main driveway to facilitate circulation into and out of a conveyer-operated self-service car  
2 wash. A diagram of the parcels, as well as the shared driveway, is included as exhibit B to the  
3 Easement and reproduced here. *See* Ex. 1 at attachment Ex. B.



17           15.     The Delta View Center treats a total of approximately 105 patients on a weekly  
18 basis, nearly all of whom have end stage renal disease (ESRD). At this advanced stage of kidney  
19 disease, the kidneys have lost nearly all their ability to do their job effectively, and dialysis or a  
20 kidney transplant is needed to live. The Delta View Center's patients are wholly dependent on  
21 dialysis as a life-sustaining treatment. In addition to suffering from ESRD, most patients  
22 receiving dialysis treatments have comorbidities. Cardiovascular diseases and diabetes are  
23 common as well as other ailments related to advanced age and overall poor health. The patient's  
24

1 nephrologist is responsible for prescribing the dialysis sessions, which take place 3 times each  
2 week for approximately 4 hours per session.

3 16. Most patients cannot get to and from the Delta View Center for treatment on their  
4 own. Approximately 50% of the patients rely on transportation services. Other patients have  
5 caretakers who provide transportation. And approximately 20 patients drive themselves. Many of  
6 the patients are non-ambulatory; they use wheelchairs or require the use of walkers and/or  
7 assistance from caregivers to enter and exit the center from the parking lot.

8 17. The Delta View Center employs approximately 30 “teammates.” These include  
9 administrative personnel, social workers, dietitians, and patient care technicians and nurses who  
10 administer the dialysis on rotating shifts. Physicians and nurse practitioners also attend to patients  
11 while they are at the center.

12 18. When patients arrive, a medical professional conducts a brief medical check-in,  
13 including monitoring the patient’s vital signs, and then connects the patient to the dialysis  
14 machine. The patient is monitored throughout the 4-hour treatment. It is essential for patients to  
15 arrive at their designated appointment time to ensure that they receive the full treatment  
16 prescribed by their nephrologist.

17 ***Zoning Overlay District and Use Permit***

18 19. The base zoning for Parcel A is “Community Commercial.” Parcels zoned  
19 “Community Commercial” do not permit use for Automobile Washing. *See* City of Pittsburg  
20 Municipal Code, Article 18.52.005.

21 20. On or around April 2, 2021, Blue Wave filed a Planning Application requesting  
22 approval of 1) Zoning Map Amendment from CC (Community Commercial) to establish a  
23 Limited Overlay District (CC-O) to conditionally permit Automobile Washing, 2) a Use Permit to  
24 establish an automatic Automobile Washing facility, and 3) a Design Review application to

25

1 construct one 3,600 square foot commercial, self-service car wash building. *See* Pittsburg City  
2 Council Ordinance No. 23-1506, Ex. 2., p. 2-5. The Planning Commission initially reviewed and  
3 approved these plans. In February 2023, the Pittsburg City Council approved an Ordinance  
4 establishing the requested zoning overlay district for Parcel A and the proposed Use Permit. *Id.*

5 21. The zoning overlay district allows the use and development of Parcel A for  
6 Automobile Washing. *See* Ex. 2, p. 8. With the overlay, the base zoning remains Community  
7 Commercial, however, it creates an exception for the development and use of the property as a  
8 car wash, with a Use Permit, that has been approved. *Id.*

9 ***Reciprocal Easement for Access, Ingress, and Egress***

10 22. Despite the zoning overlay district and the Use Permit, the Easement remains in  
11 place. It governs both the permissible uses on each parcel as well as permissible uses of the  
12 shared driveway and common area. Ex. 1 at Recital (B).

13 23. Relevant here, the Easement grants a reciprocal easement to each Parcel Owner as  
14 well as their permittees over the “Driveway” and for access to the “Common Area.” *Id.* at §2.1(a).  
15 It is designed to allow passage for vehicles and pedestrians over the Driveway and Common Area  
16 for access, ingress and egress:

17 A reciprocal easement for reasonable access, ingress and egress  
18 over all paved driveways, roadways and walkways as presently or  
19 hereafter constructed and constituting a part of the Common Area  
20 of Parcel B and the Common Area of Parcel A including, without  
21 limitation, the Driveway, so as to provide for the passage of motor  
22 vehicles and pedestrians between all portions of the Common Area  
23 of such Parcels intended for such purposes, and to and from all  
24 abutting streets or rights of way furnishing access to such Parcels.

21 *Id.*

22 24. The Common Area is defined as those portions of the parcels that are “outside the  
23 exterior walls of buildings” and are “parking areas, landscaped areas, driveways, roadways . . .  
24

1 walkways . . . entrances, exits.” *Id.* at §1(d). The Driveway is defined as that driveway shown on  
2 the Site Plan. *Id.* at §1(f).

3 25. The Easement also provides for “Reasonable Use” which prohibits uses that  
4 interfere with, or obstruct or delay the conduct of the businesses located on the Parcels:

5 The easements herein above granted shall be used and enjoyed by  
6 each Owner and its Permittees in such a manner so as not to  
7 unreasonably interfere with, obstruct or delay the conduct and  
8 operations of the business of any other Owner or its Permittees at  
any time conducted on its Parcel, including, without limitation,  
public access to and from said business, and the receipt or delivery  
of merchandise in connection therewith.

9 *Id.* at §2.4.

10 26. The Easement also contains certain use restrictions. Importantly, these use  
11 restrictions specifically recognize that Parcel B had been leased to Total Renal Care for use as a  
12 dialysis center. *See Id.* at §§5.1, 5.2. The restrictions on use are designed to create an environment  
13 amenable to a dialysis center and like businesses. The restrictions include the following  
14 prohibitions:

15 [I]t is expressly agreed that neither all nor any portion of the Parcels  
16 shall be used, for purposes of a cocktail lounge, bar, disco, bowling  
17 alley, pool hall, billiard parlor, skating rink, roller rink, amusement  
18 arcade, adult book store, adult theatre, adult amusement facility,  
19 any facility selling or displaying pornographic materials or  
20 having such displays, auction house, flea market, sleeping quarters  
or lodging (except in connection with nocturnal dialysis), the  
outdoor housing or raising of animals, the sale, leasing or storage of  
automobiles, recreational vehicles, boats or other vehicles, any  
industrial use, an assembly hall, off track betting establishment,  
bingo parlor, any use which creates a nuisance.

21 *Id.* at §5.1

22 27. These restrictions expressly prohibit vehicle-related activities, including the sale,  
23 leasing, or storage of automobiles, recreational vehicles and boats. At the time the Easement was  
24 created, the zoning overlay district did not exist, and the use and development of the Parcels for a

25

1 car wash was prohibited. As a result, there was no need to expressly bar a car wash as a use under  
2 Easement.

3 28. Now, Blue Wave has communicated that it intends to begin construction on the  
4 Blue Wave Express Car Wash on Parcel A. It has rejected Plaintiff E. Leland Road Associates’  
5 proposal for an alternate driveway and entrance to the car wash and has declared its intent to use  
6 the existing driveway for access to and from the car wash for vehicles using its proposed 3600  
7 square foot car wash facility.

8 ***Use of the Easement by The Delta View Center***

9 29. The use of Parcel A as a 3600 square foot Blue Wave Express Car Wash will place  
10 an undue burden on the reciprocal Easement and interfere with, obstruct, and delay the operations  
11 of the Delta View Center. The substantial increase in traffic associated with the Blue Wave  
12 Express Car Wash and Blue Wave’s proposed addition of several intersections for entrances and  
13 exits will create hazardous and unsafe conditions for vehicular and pedestrian access, ingress and  
14 egress, to the dialysis center. Blue Wave’s proposed use will also cause delays in patient access to  
15 the dialysis center, in turn negatively impacting patients’ ability to obtain life-sustaining treatment  
16 and the operations of the Delta View Center.

17 30. The Delta View Center provides dialysis to its patients on a shift schedule, in  
18 which the patients have a designated “chair time”—the time at which they are seated in the  
19 dialysis chair and commence their treatment. The Delta View Center has 20 chairs. The chair time  
20 is at the same time each day the patient receives treatment: either Monday-Wednesday-Friday or  
21 Tuesday-Thursday-Saturday. There are three shifts each day, with slightly staggered starting and  
22 ending times within the shift, as further set forth below. It is essential for patients to arrive at their  
23 designated chair time to ensure that they receive the full treatment prescribed by their  
24 nephrologist — the treatment the patients need to stay alive. There is very little flexibility in the

1 starting and ending times as the Delta View Center must maintain its schedule to ensure all  
2 patients receive their full treatment.

3 31. For this reason, patients must not be hindered arriving at the center. The  
4 overwhelming majority of patients need some assistance in physically getting to and from a  
5 vehicle when entering the Delta View Center. Typically, this assistance is provided by either a  
6 transportation service, a family member, or a hired caregiver. These third parties generally park in  
7 the Delta View Center's parking lot at the time of drop-off and pick-up, and enter or exit the  
8 center with the patient, which takes around fifteen to thirty minutes. The Delta View Center must  
9 ensure that this arrival and departure process is as smooth as possible for its patient population.

10 32. The chair time schedule creates a busy "changeover" window. During the time in  
11 which one shift is leaving and the next shift arriving, the parking lot at the Delta View Center  
12 becomes heavily trafficked and nears full capacity.

13 33. For example, on Monday, Wednesday, and Friday, the changeover time between  
14 the first and second shift is from approximately 7:30 to 9:45 a.m. and the changeover from the  
15 second to third shift is from 11:45 a.m. to 1:45 p.m. During these windows, 39 patients are either  
16 arriving or departing from the center. The Tuesday-Thursday-Saturday schedule is similar. The  
17 changeover windows are from 8:00 to 9:30 a.m. and from 12:15 to 2:15 p.m., with approximately  
18 36 patients either entering or exiting the center. Patients who have transportation companies drop  
19 them off typically pull up to the front entrance for drop off. The patients who drive themselves or  
20 have a caretaker drop them off typically park and walk through the lot (often with assistance from  
21 a caregiver) to enter or exit the center. To exit the vehicle, navigate to the center, and get situated  
22 takes a patient and caregiver approximately 15 to 30 minutes. In addition, during both time  
23 windows, certain Delta View Center teammates, including medical technicians, nurses, and other  
24 employees also arrive and depart. At the end of the day, from approximately 4:00-5:30 p.m. from

1 Monday through Saturday, 14-18 patients exit the center, most with the assistance of a third party.  
2 During this time, Delta View Center teammates also exit the center and travel through the parking  
3 lot.

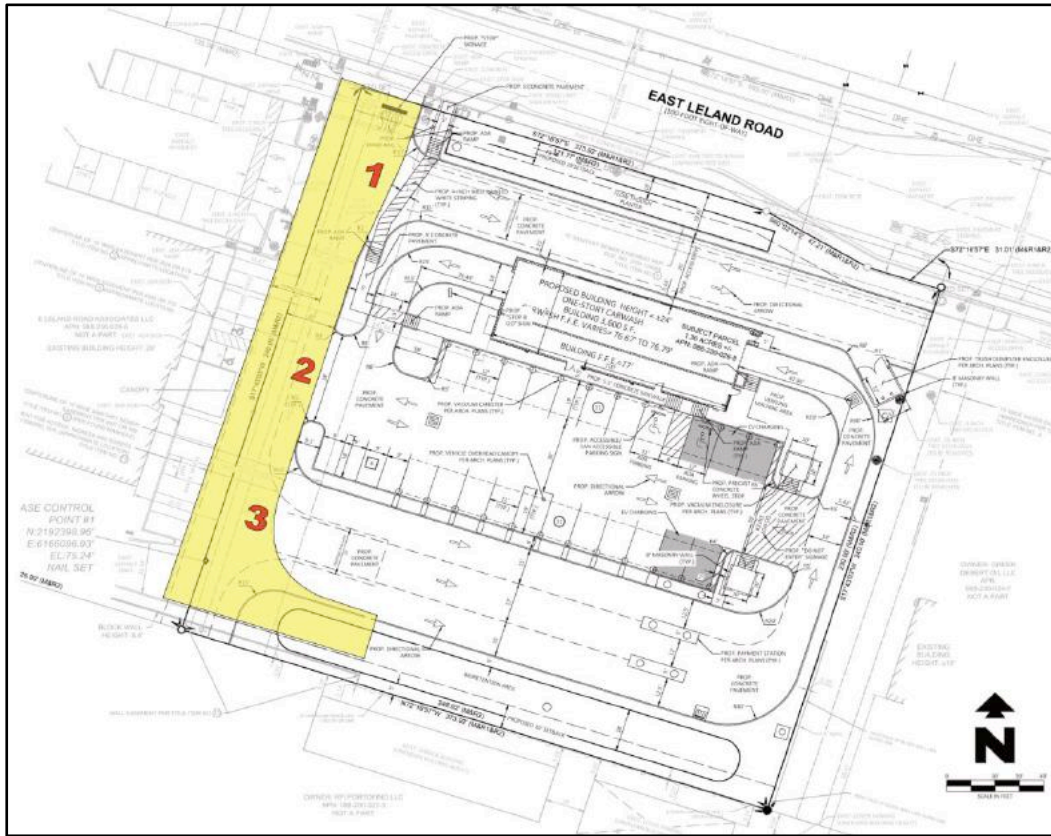
4 34. Further, there are visitors and regular deliveries to the Delta View Center. For  
5 example, certain shifts have regular visitors who sit with the patients during their dialysis  
6 treatments. Deliveries arrive on Monday, Tuesday, and Wednesday every week. Due to the  
7 vulnerable populations they serve, dialysis centers are more likely than other businesses to require  
8 emergency services. In the last year, 18 emergency vehicles came to the Delta View Center for  
9 various reasons. Emergency vehicles require free and clear access to the center through the same  
10 parking lot as patients, teammates, and other visitors.

11 ***Impacts on Reciprocal Easement under Blue Wave's Plan***

12 35. The proposed Blue Wave car wash next to the Delta View Center will  
13 unreasonably impact the parking and arrival operations of the Delta View Center as well as  
14 unreasonably burden the shared driveway. In essence, Blue Wave intends to convert the  
15 Easement—which is intended simply as a driveway under the governing documents—into a  
16 thoroughfare that more closely resembles a street. In a traffic study submitted to the City of  
17 Pittsburg (the “Blue Wave Traffic Study”), Blue Wave estimates a substantial influx of new  
18 vehicles, at the rate of 55 vehicles per hour during peak times (for a total of 110 “trips,” i.e. one  
19 entrance and one exit). *See Ex. 3, p. 2.* Blue Wave’s site plan will also introduce three new  
20 intersections on the Easement to facilitate its car wash operations. *See Ex. 3, site plan at p. 5.* The  
21 substantial influx of vehicles combined with the new configuration will create hazardous traffic  
22 patterns and significantly compromise the ability of the Delta View Center’s patients to access the  
23 Delta View Center for life-saving dialysis treatment. In the figure below, the Easement is

24  
25

1 highlighted in yellow and the new intersections are marked as Nos. 1, 2, and 3 on top of the Blue  
2 Wave site plan attached to the Blue Wave Traffic Study (Ex. 3):



15 **New Intersections Formed with Blue Wave Access**

16 36. Blue Wave’s traffic will create safety hazards within the Easement and thereby  
17 negatively impact the safety of the Delta View Center’s patients and the operations of the Delta  
18 View Center in the following ways:

- 19 a. ***Patient pedestrian safety hazards and delay from congestion:*** The traffic volumes  
20 and vehicle movements from the car wash will likely compromise the safety of the  
21 Delta View Center’s patients by impeding their ability to safely travel to and from  
22 their vehicles. They are also under the constraint of meeting their appointment times,  
23 which is critical to their healthcare needs. The congestion created by car wash  
24 customers would create delays for patients arriving for their scheduled dialysis

1 appointments, who must first park and then access the Delta View Center with  
2 assistance, many of whom use wheelchairs or walkers. The Blue Wave Traffic Study  
3 did not address the critical issue of parking constraints and impact on pedestrians  
4 created by car wash traffic.

- 5 b. ***Turning movement conflicts from additional traffic and intersections:*** The  
6 additional car wash traffic in both directions in the Easement through the three new  
7 intersections interfacing with the driveway will create numerous turning movement  
8 conflicts in uncontrolled intersections. This will severely inhibit existing parking  
9 maneuvers. The result will be an increased likelihood of vehicle accidents.
- 10 c. ***New two-way traffic dynamic creates traffic flow conflict:*** With the new two-way  
11 traffic dynamic caused by the car wash, there will be numerous conflicts between  
12 competing traffic flows. For example, exiting users of the Delta View Center's  
13 parking spaces will be forced to compete for space in the Easement with Blue Wave's  
14 customers, who utilize the Easement as part of the car wash operations. There is no  
15 adequate "turn around" area on the existing driveway unless parking spaces are used.  
16 It is not reasonable to assume that patients and others attempting to enter or exit the  
17 Delta View Center will be able to turn around with Blue Wave's competing traffic  
18 through the Easement. Again, the result would an increased likelihood of vehicle  
19 accidents.
- 20 d. ***Public safety access for emergency vehicles compromised:*** Public safety access is  
21 also compromised by Blue Wave's proposed design. The increased traffic on the  
22 driveway will decrease the ability of emergency vehicles to promptly access the site.  
23 The proposed site plan also makes the entrance and turnaround for emergency  
24 vehicles very difficult.

1           37.     Negative health impacts for patients and negative operational impacts for the Delta  
2 View Center are likely to result from the congestion in the parking area. Patient delays in parking  
3 and entering the center may result in patients not receiving the full length of dialysis treatment  
4 prescribed by their doctor, potentially causing serious negative health impacts. Missed dialysis  
5 treatments can be life threatening. Safe and efficient movement through the parking area is  
6 essential to allow patients adequate time to check-in, receive pre-dialysis care, and begin  
7 treatment at their designated chair time. Delays caused by difficulties in parking or in patients’  
8 ability to navigate the parking area to enter the center would cause disruptions to the shift  
9 schedule, could create a cascading effect of further delays due to the limited number of dialysis  
10 chairs, negatively impact the operation of the center, and hinder the Delta View Center’s ability to  
11 provide care to its patients.

12           38.     Under these circumstances, the use of Parcel A as a Blue Wave car wash as set  
13 forth in Blue Wave’s proposed plan will unreasonably impact the operations of the Delta View  
14 Center and unreasonably interfere with access, ingress, and egress to the Delta View Center by its  
15 patients. The impacts of Blue Wave’s proposed use of the Easement—essentially as a street with  
16 multiple intersections—will unreasonably burden the Easement by 1) creating hazardous and  
17 unsafe conditions as patients navigate through the parking and driveway areas, both in vehicles  
18 and as pedestrians, and 2) causing delays getting into the facility, disrupting their dialysis  
19 treatment schedule on which they depend for life saving care.

20           39.     Moreover, the Blue Wave Traffic Study does not accurately estimate the traffic  
21 impacts of the car wash, including the back up that will occur in the reciprocal Easement at peak  
22 usage times. An accurate estimate of the traffic impacts demonstrates that during peak hours, a  
23 queue of vehicles could back up into the parking lot aisles and thus block access to parking spaces  
24 designed and dedicated for Delta View Center patients.

1 **FIRST CAUSE OF ACTION**

2 **DECLARATORY RELIEF**

3 40. Plaintiffs incorporate by reference the allegations contained in the preceding and  
4 subsequent paragraphs as if fully set forth herein.

5 41. An actual controversy exists over the legal rights and duties concerning the use of  
6 the joint Easement recorded on April 6, 2010, and attached hereto as Exhibit 1. Defendant has  
7 obtained a permit for and intends to construct a Blue Wave Express Car Wash on Parcel A.  
8 Defendant has informed Plaintiffs that it intends to commence construction in accordance with  
9 the plans submitted to the City of Pittsburg. Construction may commence at any time. The  
10 construction of a Blue Wave Express Car Wash on Parcel A in accordance with the plans will  
11 interfere with Plaintiffs use of the reciprocal Easement, overburden the Easement, and is contrary  
12 to the express terms of that Easement.

13 42. Defendant Blue Wave’s proposed use of the reciprocal Easement in connection  
14 with the car wash on Parcel A will overburden the Easement and interfere with Plaintiffs’ use by  
15 creating a street-like configuration with a high-volume of two-way traffic and the introduction of  
16 several new intersections. The street-like configuration would compromise the safety of the Delta  
17 View Center’s patients, many of whom are handicapped, by impeding their ability to safely walk  
18 to and from their parked vehicles. The street-like configuration would create numerous turning  
19 movement conflicts in uncontrolled intersections and would also severely inhibit existing parking  
20 maneuvers — also creating hazardous traffic conditions. These conditions are also likely to create  
21 delays compromising the ability of patients to access the Delta View Center to obtain dialysis  
22 treatment and interfere with the ability to run the dialysis center on scheduled shifts.

23 43. Defendant’s proposed use of the reciprocal Easement will violate the express terms  
24 of the Easement, which provides for “reasonable access, ingress and egress over all paved

1 driveways, roadways and walkways” and also provides for the passage of “motor vehicles and  
2 pedestrians between all portions of the Common Area.” §2.1(a).

3 44. Defendant’s proposed use of the reciprocal Easement will also violate the  
4 “reasonable use” clause, which provides that the Easement shall be used “in such a manner so as  
5 not to unreasonably interfere with, obstruct, or delay the conduct and operations of the business of  
6 any other Owner or its Permittees.” §2.4(a)

7 45. Defendant’s proposed use of the Easement will be contrary to the restrictions on  
8 the Easement, the terms of which provide for the use of Parcel B as a dialysis center and which  
9 bar the use of Parcel A for vehicular-related businesses. §§ 5.1, 5.2.

10 **SECOND CAUSE OF ACTION**

11 **PERMANENT INJUNCTION**

12 46. Plaintiffs incorporate by reference the allegations contained in the preceding and  
13 subsequent paragraphs as if fully set forth herein.

14 47. Plaintiffs will suffer irreparable harm if an injunction is not issued to prevent the  
15 construction of a Blue Wave Express Car Wash on Parcel A.

16 48. Once the Blue Wave Express Car Wash is constructed, it will have continuing and  
17 ongoing impact on Plaintiffs’ rights under the Easement.

18 49. Defendant’s planned use of the Easement for the operation of its car wash facility  
19 will unreasonably interfere with the Delta View Center and its patients’ use of the Easement on a  
20 continuing basis, including creating hazardous conditions in the parking lot for pedestrians and  
21 vehicles, delays in patients’ access to the Delta View Center, and the ability to run the center on  
22 scheduled shifts, as set forth above. The street-like configuration proposed by Blue Wave is also  
23 incompatible with the description of the shared Easement as a “driveway” for “access,” “ingress”  
24 and “egress.” Equally, it conflicts with the purpose of the Easement “to provide for the passage of

1 motor vehicles and pedestrians between all portions of the Common Area,” including parking  
2 areas, driveways, roadways, entrances and exits. And it is contrary to the intent of the Easement  
3 which was to bar vehicle-related businesses from operating on Parcel A.

4 50. This interference with the use of the Easement will cause irreparable harm to  
5 Plaintiffs, including but not limited to the likelihood of negative health impacts to the Delta View  
6 Center’s patients, negative impacts on the running of the Delta View Center, and causing Parcel B  
7 to no longer be a suitable location for a dialysis center. These irreparable harms cannot be  
8 compensated with monetary damages.

9 51. Plaintiffs have established grounds for declaratory relief, as set forth above, and  
10 bring this cause of action for permanent injunction on this basis.

11 WHEREFORE, Plaintiffs prays as follows:

- 12 1. That the Court declare that Defendant’s intended use of the parcel at 1160 E.  
13 Leland Road is not permitted under the Easement;
- 14 2. That the Court permanently enjoin Defendant from constructing a car wash on the  
15 parcel at 1160 E. Leland Road;
- 16 3. That the Court grant Plaintiffs’ attorneys fees and costs pursuant to section 11.1 of  
17 the Easement and/or all other bases on which Plaintiffs may be awarded fees and costs;
- 18 4. For all other and further relief that this Court deems proper and just.

19  
20 Dated: June 18, 2025

FERGUSON LAW PC  
FERGUSON & BERLAND  
NOAH BERLAND

21  
22 By: /s/ Sam Ferguson

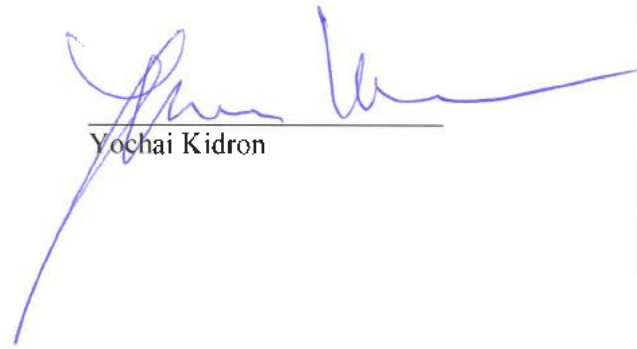
Sam Ferguson  
Attorneys for Plaintiffs

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**Verification**

I, Yochai Kidron, have read this Verified Complaint For Declaratory Relief And Permanent Injunction. I am informed, and do believe, that the matters herein are true. On that ground I allege that the matters stated herein are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this June 19, 2025, in Berkeley, California.



Yochai Kidron

## **EXHIBIT 1**

**RECORDING REQUESTED BY:  
AND WHEN RECORDED MAIL TO:**

Pittsburg Leland Group, L.P.  
121 Spear Street, Suite 250  
San Francisco, CA 94105

This is to certify that this is a true and correct copy of the original document recorded on 4/6/2010 at San as No. 10-066990 in the County of Contra Costa Old Republic Title Company By [Signature]

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DECLARATION OF EASEMENTS, COVENANTS,  
CONDITIONS AND RESTRICTIONS

THIS DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS (the "Declaration") is made and entered into this 25th day of January, 2010, by Pittsburg Leland Group, L.P., a California limited partnership ("Declarant")

RECITALS

- A. Declarant is the owner of that certain real property situated in the City of Pittsburg, County of Contra Costa, State of California, more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference, which real property is made up of two parcels, legally described on Exhibit "A" and referred to herein individually as "Parcel A" and "Parcel B," and collectively as the "Parcels".
- B. Declarant desires to impose certain easements upon the Parcels, and to establish certain covenants, conditions and restrictions with respect to said Parcels, for the mutual and reciprocal benefit and complement of Parcel A and Parcel B and the present and future owners and occupants thereof, on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the above premises and of the covenants herein contained, the Declarant does hereby declare that the Parcels and all present and future owners and occupants of the Parcels shall be and hereby are subject to the terms, covenants, easements, restrictions and conditions hereinafter set forth in this Declaration, so that said Parcels shall be maintained, kept, sold and used in full compliance with and subject to this Declaration and, in connection therewith, Declarant covenants and agrees as follows:

AGREEMENTS

1. Definitions. For purposes hereof:
- (a) The term "Owner" or "Owners" shall mean the Declarant and any and all successors or assigns of such persons as the owner or owners of fee simple title to all or any portion of the real property covered hereby, whether by sale, assignment, inheritance, operation of law, trustee's sale, foreclosure, or otherwise, but not including the holder of any lien or encumbrance on such real property.

(b) The term "Parcel" or "Parcels" shall mean each separately identified parcel of real property now constituting a part of the real property subjected to this Declaration as described on Exhibit "A", that is, Parcel A and Parcel B, and any future subdivisions thereof.

(c) The term "Permittees" shall mean the tenant(s) or occupant(s) of a Parcel, and the respective employees, agents, contractors, customers, invitees and licensees of (i) the Owner of such Parcel, and/or (ii) such tenant(s) or occupant(s).

(d) The term "Common Area" shall mean those portions of Parcel A and Parcel B that are outside of exterior walls of buildings or other structures from time to time located on the Parcels, and which are either unimproved, or are improved as (without limitation) parking areas, landscaped areas, driveways, roadways, walkways, light standards, curbing, paving, entrances, exits and other similar exterior site improvements.

(e) The term "Site Plan" shall mean that site plan of the Parcels attached hereto as Exhibit "B" and by reference made a part hereof. Except as may be otherwise provided in this Declaration, the Site Plan is for identification purposes only.

(f) The term "Driveway" shall mean that driveway and related driveway improvements, paving, curbing, entrances and exits, in the location on the Parcels as shown on the Site Plan.

## 2. Easements.

2.1 Grant of Easements. Subject to any express conditions, limitations or reservations contained herein, Declarant hereby declares that the Parcels, and all Owners and Permittees of the Parcels, shall be benefited and burdened by the following nonexclusive and perpetual easements which are hereby imposed upon the Parcels and all present and future Owners and Permittees of the Parcels:

(a) A reciprocal easement for reasonable access, ingress and egress over all paved driveways, roadways and walkways as presently or hereafter constructed and constituting a part of the Common Area of Parcel B and the Common Area of Parcel A including, without limitation, the Driveway, so as to provide for the passage of motor vehicles and pedestrians between all portions of the Common Area of such Parcels intended for such purposes, and to and from all abutting streets or rights of way furnishing access to such Parcels;

(b) A reciprocal easement upon, under, over, above and across the Common Area of the Parcels for the discharge, drainage, use, detention and retention of storm water runoff, as determined by Declarant, and to install, maintain, repair and replace storm water collection, retention, detention and

distribution lines, conduits, pipes and other apparatus under and across those portions of the Common Area. The storm water detention areas, if any, and all lines, conduits, pipes and other apparatus for water drainage, and all storage systems necessary in connection therewith, shall be hereinafter called the "Water Detention and Drainage Facilities". The easement granted herein shall include the right of reasonable ingress and egress with respect to the Water Detention and Drainage Facilities as may be required to maintain and operate the same. The Water Detention and Drainage Facilities required for Parcel B shall initially be constructed by Declarant. Once constructed by Declarant, (i) the Water Detention and Drainage Facilities shall not be modified, altered, relocated or otherwise changed, without the prior written consent of all Owners and, (ii) each Owner shall operate and maintain, or cause to be operated and maintained, in good order, condition and repair, the Water Detention and Drainage Facilities located upon its Parcel and make any and all repairs and replacements that may from time to time be required with respect thereto.

(c) A reciprocal easement under and across those parts of the Common Area that are not within any building areas for the installation, maintenance, repair and replacement of water mains, storm drains, sewers, water sprinkler system lines, telephone or electrical conduits or systems, cable, gas mains and other utility facilities necessary for the orderly development and operation of the Common Area and each building from time to time located within the Parcels; provided that (i) the rights granted pursuant to such easements shall at all times be exercised in such a manner as not to interfere materially with the normal operation of a Parcel and the businesses conducted therein, (ii) the exact location of any utilities shall be subject to the approval of the Owner(s) of the burdened Parcel(s), and (iii) except in an emergency, the right of any Owner to enter upon the Parcel of another Owner for the exercise of any right pursuant to such easements shall be conditioned upon providing reasonable prior advance written notice to the other Owner as to the time and manner of entry. All such systems, structures, mains, sewers, conduits, lines and other public utilities shall be installed and maintained below the ground level or surface of the Parcel (except for such parts thereof that cannot and are not intended to be placed below the surface, such as transformers and control panels, which shall be placed in such location as approved by the Owner of the affected Parcel.

(d) An easement from the Owner of Parcel A to the Owner of Parcel B for the installation and maintenance of a concrete wall (the "Wall") in the location as shown on the Site Plan (the "Wall Easement"), as required by the City of Pittsburg for development approval of Parcel B. The easement granted herein shall include the right of reasonable ingress and egress with respect to the Wall Easement as may be required to install and maintain the Wall. The Wall shall initially be constructed by Declarant. Once constructed by Declarant, the concrete wall shall not be modified, altered, relocated or otherwise changed, without the prior written consent of all Owners and the City of Pittsburg.

2.2 Indemnification. Each Owner having rights with respect to an easement granted hereunder shall indemnify and hold the Owner whose Parcel is subject to the easement harmless from and against all claims, liabilities and expenses (including reasonable attorneys' fees) relating to accidents, injuries, loss, or damage of or to any person or property arising from the negligent, intentional or willful acts or omissions of such Owner, its contractors, employees, agents, or others acting on behalf of such Owner.

2.3 Access Opening. The opening(s) and access point(s) contemplated between the Parcels for use of the Driveway is/are shown on the Site Plan and such opening(s) and access point(s) between the Parcels for use of the Driveway, as contemplated pursuant to paragraph 2.1(a) above, are hereinafter called the "Access Openings." The Access Openings shall in no event be blocked, closed, altered, changed or removed and shall at all times remain in place as shown on the Site Plan. There shall be maintained between the Access Openings a smooth and level grade transition to allow the use of the Driveway for pedestrian and vehicular ingress and egress as set forth in paragraph 2.1 above. Except with respect to the Access Openings, each Owner shall be permitted to maintain a fence, curbing, landscaping or other improvements along the boundary line of its Parcel.

2.4 Reasonable Use of Easements.

(a) The easements herein above granted shall be used and enjoyed by each Owner and its Permittees in such a manner so as not to unreasonably interfere with, obstruct or delay the conduct and operations of the business of any other Owner or its Permittees at any time conducted on its Parcel, including, without limitation, public access to and from said business, and the receipt or delivery of merchandise in connection therewith.

(b) Once the Water Detention and Drainage Facilities are installed pursuant to the easements granted in paragraph 2.1(b) hereof, and/or utility lines, systems and equipment are installed pursuant to the easements granted in paragraph 2.1(c) hereof, no permanent building, structures, trees or other improvements inconsistent with the use and enjoyment of such easements (excluding improvements typically found in common areas of commercial centers) shall be placed over or permitted to encroach upon such water detention, drainage and utility installations. The Owner of the Parcel served by such installations shall not unreasonably withhold its consent to the reasonable relocation of such installations requested by the Owner of a Parcel where such installations are located, at such requesting Owner's sole cost and expense, so long as water detention and drainage services or utility services, as applicable, to the other Owner's Parcel are not unreasonably interrupted and the remaining provisions of this paragraph 2.4 are complied with.

(c) Once commenced, any construction undertaken in reliance upon an easement granted herein shall be diligently prosecuted to completion, so as to minimize any interference with the business of any other Owner and its Permittees. Except in cases of emergency, the right of any Owner to enter upon a Parcel of another Owner for the exercise of any right pursuant to the easements set forth, or to prosecute work on such Owner's own Parcel if the same interferes with utility or drainage easements or easements of ingress, egress or access to or in favor of another Owner's Parcel, shall be undertaken only in such a manner so as to minimize any interference with the business of the other Owner and its Permittees. In such case, no affirmative monetary obligation shall be imposed upon the other Owner, and the Owner undertaking such work shall with due diligence repair at its sole cost and expense any and all damage caused by such work and restore the affected portion of the Parcel upon which such work is performed to a condition which is equal to or better than the condition which existed prior to the commencement of such work. In addition, the Owner undertaking such work shall pay all costs and expenses associated therewith and shall indemnify and hold harmless the other Owner(s) and its Permittees from all damages, losses, liens or claims attributable to the performance of such work.

### 3. Maintenance.

3.1 General. Until such time as improvements are constructed on a Parcel, the Owner thereof shall maintain the same in a clean and neat condition and shall take such measures as are necessary to control grass, weeds, blowing dust, dirt, litter or debris.

3.2 Buildings and Appurtenances Thereto. Each Owner covenants to keep and maintain, at its sole cost and expense, the building(s) located from time to time on its respective Parcel in good order, condition and repair. Once constructed, in the event of any damage to or destruction of a building on any Parcel, the Owner of such Parcel shall, at its sole cost and expense, with due diligence either (a) repair, restore and rebuild such building to its condition prior to such damage or destruction (or with such changes as shall not conflict with this Declaration), or (b) demolish and remove all portions of such damaged or destroyed building then remaining, including the debris resulting therefrom, and otherwise clean and restore the area affected by such casualty to a level, graded condition. Nothing contained in subparagraph 3.2(b) shall be deemed to allow an Owner to avoid a more stringent obligation for repair, restoration and rebuilding contained in a lease or other written agreement between an Owner and such Owner's Permittee. Each Parcel shall comply with applicable governmental parking ratio requirements without taking into account the parking provided on the other Owner's Parcel, such that each Parcel shall be self sufficient for vehicular parking.

3.3 Common Area. Each Owner of a Parcel covenants at all times during the term hereof to operate and maintain or cause to be operated and maintained at its expense all Common Area located on its Parcel in good order, condition

and repair. Following the construction of improvements thereon, maintenance of Common Area shall include, without limitation, maintaining and repairing all sidewalks and the surface of the parking and roadway areas, removing all papers, debris and other refuse from and periodically sweeping all parking and road areas to the extent necessary to maintain the same in a clean, safe and orderly condition, maintaining appropriate lighting fixtures for the parking areas and roadways, maintaining marking, directional signs, lines and striping as needed, maintaining landscaping, maintaining signage in good condition and repair, and performing any and all such other duties as are necessary to maintain such Common Area in a clean, safe and orderly condition. Except as otherwise expressly provided in this Declaration, once constructed, in the event of any damage to or destruction of all or a portion of the Common Area on any Parcel, the Owner of such Parcel shall, at its sole cost and expense, with due diligence repair, restore and rebuild such Common Area to its condition prior to such damage or destruction (or with such changes as shall not conflict with this Declaration). Each Owner reserves the right to alter, modify, reconfigure, relocate and/or remove the Common Areas or building areas on its Parcel, subject to the following conditions: (i) the reciprocal easements between the Parcels pursuant to paragraph 2.1(a) shall not be closed or materially impaired; (ii) the Driveway, and ingress and egress thereto, and to and from the Parcels and adjacent streets and roads, shall not be so altered, modified, relocated, blocked and/or removed without the express written consent of all Owners; and (iii) the same shall not violate any of the provisions and easements granted in paragraph 2.

3.4 Utilities. Each Owner shall at all times during the term hereof construct, operate and maintain or cause to be constructed, operated and maintained, in good order, condition and repair, at its sole expense, any utility or other installations serving the Parcel of such Owner and from time to time existing on the Parcel of another Owner pursuant to an easement described herein.

3.5 Outside Lighting. To the extent a Parcel has exterior lighting, that Parcel shall be lit from dusk to 10:00 p.m. every day, at the cost and expense of the Owner of the Parcel upon which the exterior lighting is located. Notwithstanding the foregoing, the Parking Lot Lights shown on the Site Plan adjacent to the Driveway on Parcel A (the "Lights") shall be electrified by service from Parcel B and maintained by the Parcel B Owner until such time as Parcel A is developed. Upon development of Parcel A, the Lights shall be electrified by service from Parcel A and maintained by the Parcel A Owner. The location of the Lights shall not be altered without the express written consent of all Owners.

3.6. Wall. The Wall within the Wall Easement Area shall be maintained by the Parcel B Owner until such time as Parcel A is developed. Upon development of Parcel A, the Wall shall be maintained by the Parcel A Owner.

4. Construction of Improvements. Every building (including its appurtenant Common Area improvements), now or in the future constructed on the Parcels, shall be constructed, operated and maintained so that the same is in compliance

with all applicable governmental requirements. The Driveway shall be constructed and completed by the Owner of Parcel B at the same time as such Owner develops Parcel B.

5. Restrictions.

5.1 General. Each Parcel shall be used for lawful purposes in conformance with all restrictions imposed by all applicable governmental laws, ordinances, codes, and regulations, and no use or operation shall be made, conducted or permitted on or with respect to all or any portion of a Parcel which is illegal. In addition to the foregoing, throughout the term of this Declaration, it is expressly agreed that neither all nor any portion of the Parcels shall be used, for purposes of a cocktail lounge, bar, disco, bowling alley, pool hall, billiard parlor, skating rink, roller rink, amusement arcade, adult book store, adult theatre, adult amusement facility, any facility selling or displaying pornographic materials or having such displays, auction house, flea market, sleeping quarters or lodging (except in connection with nocturnal dialysis), the outdoor housing or raising of animals, the sale, leasing or storage of automobiles, recreational vehicles, boats or other vehicles, any industrial use, an assembly hall, off track betting establishment, bingo parlor, any use which creates a nuisance. Notwithstanding anything contained in this Declaration to the contrary, Parcel B may be used for the operation of an outpatient renal dialysis clinic, renal dialysis home training, aphaeresis services and similar blood separation and cell collection procedures, general medical offices, clinical laboratory, including all incidental, related, and necessary elements and functions of other recognized dialysis disciplines which may be necessary or desirable to render a complete program of treatment to patients.

5.2 Additional Parcel A Restrictions. Throughout the term of this Declaration, it is expressly agreed that neither all nor any portion of Parcel A shall be used, directly or indirectly, for any one or more of the following purposes: a business that derives more than ten percent (10%) of its revenues from renal dialysis, renal dialysis home training, any aphaeresis service(s) or similar blood separation or cell collection procedures, except services involving the collection of blood or blood components from volunteer donors. Nor shall the Owner or Occupants of Parcel A display or permit to be displayed upon Parcel A any advertisement for any such business except if such advertisement is for that business operating on Parcel B. Without otherwise limiting the foregoing, this Paragraph 5.2 shall only be effective during the term of that certain lease for Parcel B entered into by and between Total Renal Care, Inc. and Declarant, dated April 15, 2009 as may be amended, extended, renewed and replaced from time to time (the "TRC Lease"). Upon expiration or earlier termination of the TRC Lease this Section 5.2 shall automatically expire.

6. Insurance. Throughout the term of this Declaration, each Owner shall procure and maintain general and/or comprehensive public liability and property damage insurance against claims for personal injury (including contractual liability arising under the indemnity contained in paragraph 2.2 above), death, or property damage occurring upon such Owner's Parcel, with single limit coverage of not

less than an aggregate of Two Million Dollars (\$2,000,000.00) including umbrella coverage, if any, and naming each other Owner (provided the Owner obtaining such insurance has been supplied with the name of such other Owner in the event of a change thereof) as additional insureds.

7. Taxes and Assessments. Each Owner shall pay all taxes, assessments, or charges of any type levied or made by any governmental body or agency with respect to its Parcel.
8. No Rights in Public; No Implied Easements. Nothing contained herein shall be construed as creating any rights in the general public or as dedicating for public use any portion of Parcel A or Parcel B. No easements, except (i) those expressly set forth in paragraph 2, and/or (ii) an easement over Parcel A so as to enable the construction of the Driveway and other improvements required for the initial development of Parcel B, shall be implied by this Declaration; in that regard, and without limiting the foregoing, no easements for parking or signage are granted or implied.
9. Remedies and Enforcement.

9.1 All Legal and Equitable Remedies Available. In the event of a breach or threatened breach by any Owner or its Permittees of any of the terms, covenants, restrictions or conditions hereof, the other Owner(s) shall be entitled forthwith to full and adequate relief by injunction and/or all such other available legal and equitable remedies from the consequences of such breach, including payment of any amounts due and/or specific performance.

9.2 Self-Help. In addition to all other remedies available at law or in equity, upon the failure of a defaulting Owner to cure a breach of this Declaration within thirty (30) days following written notice thereof by an Owner (unless, with respect to any such breach the nature of which cannot reasonably be cured within such 30-day period, the defaulting Owner commences such cure within such 30-day period and thereafter diligently prosecutes such cure to completion), any Owner shall have the right to perform such obligation contained in this Declaration on behalf of such defaulting Owner and be reimbursed by such defaulting Owner upon demand for the reasonable costs thereof together with interest at the prime rate charged from time to time by Wells Fargo Bank (its successors or assigns), plus two percent (2%) (not to exceed the maximum rate of interest allowed by law). Notwithstanding the foregoing, in the event of (i) an emergency, (ii) blockage or material impairment of the easement rights, and/or (iii) the unauthorized parking of vehicles on Parcel B, an Owner may immediately cure the same and be reimbursed by the other Owner upon demand for the reasonable cost thereof together with interest at the prime rate, plus two percent (2%), as above described.

9.3 Lien Rights. Any claim for reimbursement, including interest as aforesaid, and all costs and expenses including reasonable attorneys' fees awarded to any Owner in enforcing any payment in any suit or proceeding under this Declaration shall be assessed against the defaulting Owner in favor of the prevailing party

and shall constitute a lien (the "Assessment Lien") against the Parcel of the defaulting Owner until paid, effective upon the recording of a notice of lien with respect thereto in the Office of the County Recorder of Contra Costa County, California; provided, however, that any such Assessment Lien shall be subject and subordinate to (i) liens for taxes and other public charges which by applicable law are expressly made superior, (ii) all liens recorded in the Office of the County Recorder of Contra Costa County, California prior to the date of recordation of said notice of lien, and (iii) all leases entered into, whether or not recorded, prior to the date of recordation of said notice of lien. All liens recorded subsequent to the recordation of the notice of lien described herein shall be junior and subordinate to the Assessment Lien. Upon the timely curing by the defaulting Owner of any default for which a notice of lien was recorded, the party recording same shall record an appropriate release of such notice of lien and Assessment Lien.

9.4 Remedies Cumulative. The remedies specified herein shall be cumulative and in addition to all other remedies permitted at law or in equity.

9.5 No Termination For Breach. Notwithstanding the foregoing to the contrary, no breach hereunder shall entitle any Owner to cancel, rescind, or otherwise terminate this Declaration. No breach hereunder shall defeat or render invalid the lien of any mortgage or deed of trust upon any Parcel made in good faith for value, but the easements, covenants, conditions and restrictions hereof shall be binding upon and effective against any Owner of such Parcel covered hereby whose title thereto is acquired by foreclosure, trustee's sale, or otherwise.

9.6 Irreparable Harm. In the event of a violation or threat thereof of any of the provisions of paragraphs 2 and/or 5 of this Declaration, each Owner agrees that such violation or threat thereof shall cause the non-defaulting Owner and/or its Permittees to suffer irreparable harm and such non-defaulting Owner and its Permittees shall have no adequate remedy at law. As a result, in the event of a violation or threat thereof of any of the provisions of paragraphs 2 and/or 5 of this Declaration, the non-defaulting Owner, in addition to all remedies available at law or otherwise under this Declaration, shall be entitled to injunctive or other equitable relief to enjoin a violation or threat thereof of paragraphs 2 and/or 5 of this Declaration.

10. Term. The easements, covenants, conditions and restrictions contained in this Declaration shall be effective commencing on the date of recordation of this Declaration in the office of the Contra Costa County Recorder and shall remain in full force and effect thereafter in perpetuity, unless this Declaration is modified, amended, canceled or terminated by the written consent of all then record Owners of Parcel A and Parcel B in accordance with paragraph 11.2 hereof.

11. Miscellaneous.

11.1 Attorneys' Fees. In the event a party institutes any legal action or proceeding for the enforcement of any right or obligation herein contained, the

prevailing party after a final adjudication shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

11.2 Amendment.

(a) Declarant agrees that the provisions of this Declaration may be modified or amended, in whole or in part, or terminated, only by the written consent of all record Owners of Parcel A and Parcel B, evidenced by a document that has been fully executed and acknowledged by all such record Owners and recorded in the official records of the County Recorder of Contra Costa County, California.

(b) Notwithstanding subparagraph 11.2(a) above to the contrary, no termination of this Declaration, and no modification or amendment of this Declaration shall be made nor shall the same be effective unless the same has been expressly consented to in writing.

11.3 Consents. Wherever in this Declaration the consent or approval of an Owner is required, unless otherwise expressly provided herein, such consent or approval shall not be unreasonably withheld or delayed. Any request for consent or approval shall: (a) be in writing; (b) specify the section hereof which requires that such notice be given or that such consent or approval be obtained; and (c) be accompanied by such background data as is reasonably necessary to make an informed decision thereon. The consent of an Owner under this Declaration, to be effective, must be given, denied or conditioned expressly and in writing.

11.4 No Waiver. No waiver of any default of any obligation by any party hereto shall be implied from any omission by the other party to take any action with respect to such default.

11.5 No Agency. Nothing in this Declaration shall be deemed or construed by either party or by any third person to create the relationship of principal and agent or of limited or general partners or of joint venturers or of any other association between the parties.

11.6 Covenants to Run with Land. It is intended that each of the easements, covenants, conditions, restrictions, rights and obligations set forth herein shall run with the land and create equitable servitudes in favor of the real property benefited thereby, shall bind every person having any fee, leasehold or other interest therein and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives.

11.7 Grantee's Acceptance. The grantee of any Parcel or any portion thereof, by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof, whether from an original party or from a subsequent owner of such Parcel, shall accept such deed or contract upon and subject to each and all of the easements, covenants, conditions, restrictions and obligations contained herein. By such acceptance, any such grantee shall for

himself and his successors, assigns, heirs, and personal representatives, covenant, consent, and agree to and with the other party, to keep, observe, comply with, and perform the obligations and agreements set forth herein with respect to the property so acquired by such grantee.

11.8 Separability. Each provision of this Declaration and the application thereof to Parcel A and Parcel B are hereby declared to be independent of and severable from the remainder of this Declaration. If any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Declaration. In the event the validity or enforceability of any provision of this Declaration is held to be dependent upon the existence of a specific legal description, the parties agree to promptly cause such legal description to be prepared. Ownership of both Parcels by the same person or entity shall not terminate this Declaration nor in any manner affect or impair the validity or enforceability of this Declaration.

11.9 Time of Essence. Time is of the essence of this Declaration.

11.10 Entire Agreement. This Declaration contains the complete understanding and agreement of the parties hereto with respect to all matters referred to herein, and all prior representations, negotiations, and understandings are superseded hereby.

11.11 Notices. Notices or other communication hereunder shall be in writing and shall be sent certified or registered mail, return receipt requested, or by other national overnight courier company, or personal delivery. Notice shall be deemed given upon receipt or refusal to accept delivery. Each party may change from time to time their respective address for notice hereunder by like notice to the other party. The notice address of Declarant is as follows:

Declarant:                   Pittsburg Leland Group, L.P.  
                                  Attn: Property Management  
                                  121 Spear Street, Suite 250  
                                  San Francisco, CA 94105

11.12 Governing Law. The laws of the State in which the Parcels are located shall govern the interpretation, validity, performance, and enforcement of this Declaration.

11.13 Estoppel Certificates. Each Owner, within twenty (20) day of its receipt of a written request from the other Owner(s), shall from time to time provide the requesting Owner, a certificate binding upon such Owner stating: (a) to the best of such Owner's knowledge, whether any party to this Declaration is in default or violation of this Declaration and if so identifying such default or violation; and (b) that this Declaration is in full force and effect and identifying any amendments to the Declaration as of the date of such certificate.

11.14 Bankruptcy. In the event of any bankruptcy affecting any Owner or occupant of any Parcel, the parties agree that this Declaration shall, to the maximum extent permitted by law, be considered an agreement that runs with the land and that is not rejectable, in whole or in part, by the bankrupt person or entity.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date first written above.

Declarant:

Pittsburg Leland Group, L.P.,  
a California limited partnership

By: VPI, Inc., a California corporation  
its general partner-

By:

Name: John Glikberg

Its: Vice President

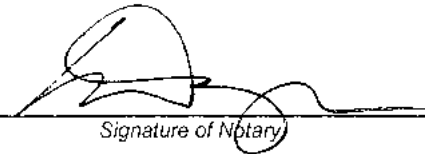
**CERTIFICATE OF ACKNOWLEDGMENT**

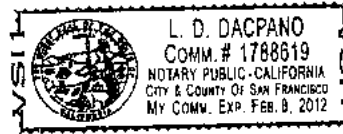
STATE OF CALIFORNIA       §  
  §  
COUNTY OF SAN FRANCISCO §

On Feb. 19, 2010 before me, L. D. Dacpano, Notary Public, personally appeared John Glickberg, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

  
\_\_\_\_\_  
*Signature of Notary*



*(For notary seal or stamp)*

## EXHIBIT "A"

### Legal Description

#### Parcel A

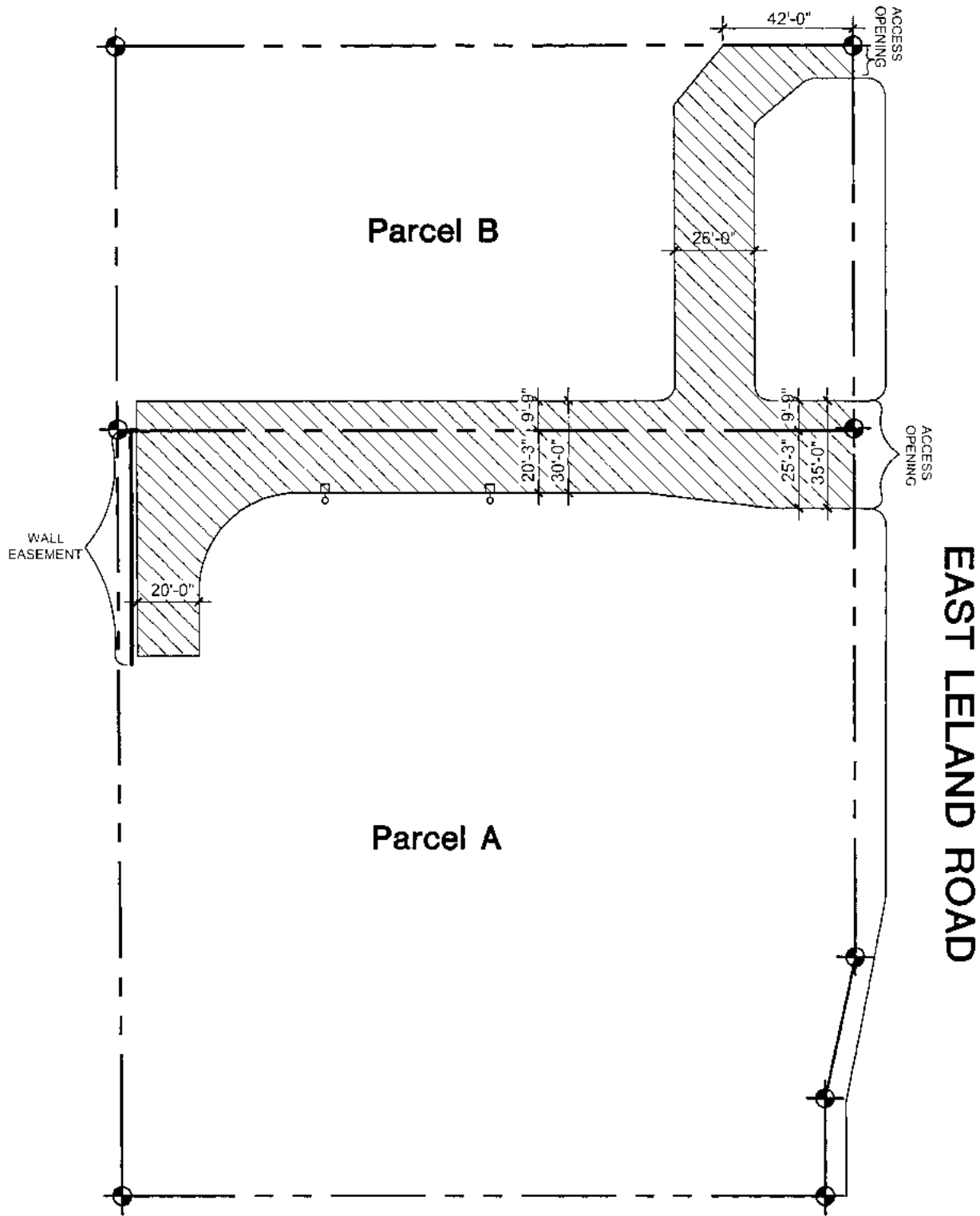
All that real property situate in the City of Pittsburg, County of Contra Costa, State of California, being portions of PARCEL B as shown on that certain Parcel Map M.S. 679-01 filed August 28, 2002, in Book 185 of Parcel Maps, at Pages 1 and 2, in the Office of the County Recorder of Contra Costa County, more particularly described as follows:

COMMENCING at the Northwesternly corner of said PARCEL B; thence along the Northerly line of said PARCEL B, South 72°16'57" East, 125.00 feet to the POINT OF BEGINNING; thence continuing along said Northerly line, South 72°16'57" East, 171.77 feet to the most Westerly corner of that parcel shown as EAST LELAND ROAD DEDICATION on said Parcel Map; thence along the exterior boundary of last said parcel, South 60°03'14" East, 47.21 feet and South 72°16'57" East, 31.01 feet to the Easterly line of said PARCEL B; thence along last said line, South 17°43'03" West, 230.00 feet to the Southerly line of said PARCEL B; thence along last said line; NORTH 72°16'57" West, 248.92 feet to a point which bears South 17°43'03" West from said Point of Beginning; thence North 17°43'03" East, 240.00 feet to the Point of Beginning.

#### Parcel B

All that real property situate in the City of Pittsburg, County of Contra Costa, State of California, being portions of PARCEL B as shown on that certain Parcel Map M.S. 679-01 filed August 28, 2002, in Book 185 of Parcel Maps, at Pages 1 and 2, in the Office of the County Recorder of Contra Costa County, more particularly described as follows:

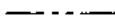
BEGINNING at the Northwesternly corner of said PARCEL B; thence along the Northerly line of said PARCEL B, South 72°16'57" East, 125.00 feet; thence South 17°43'03" West, 240.00 feet to the Southerly line of said PARCEL B; thence along last said line, North 72°16'57" West, 125.00 feet to the Westerly line of said PARCEL B; thence along last said line, North 17°43'03" East, 240.00 feet to the Point of Beginning.




**EAST LELAND ROAD  
PITTSBURG, CALIFORNIA**

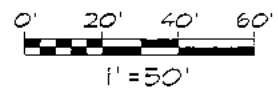
**EXHIBIT 'B'**

**LEGEND**

PROPERTY LINE 

DRIVEWAY 

PARKING LOT LIGHT 



## **EXHIBIT 2**



# City of Pittsburg

**Community and Economic Development Department – Planning Division**  
65 Civic Avenue, Pittsburg, CA 94565 | Tel: (925) 252-4920 | Fax: (925) 252-4814

Date: March 27, 2023

SUBJECT: CC Ordinance 23-1506  
CC Resolution 23-14236 and 23-14237

Dear Applicant,

Enclosed is a copy of the Ordinance and Resolutions adopted by the City Council. A copy of our Standard Conditions of Development is also included. Please read the enclosed documents and retain them for your files. All Conditions of Approval shall be incorporated into subsequent plan submittals and constructions documents, where appropriate.

The enclosed Resolution is valid for a limited period of time as specified in the Resolution. Please make note of the applicable expiration date and plan your construction timeline accordingly to avoid the loss of your entitlements.

If you have any questions about the enclosed resolution, please contact the Project Planner, Kelsey Gunter (925) 252-4824 or the Planning Division at the number listed above.

Sincerely,

A handwritten signature in black ink that reads "John L. Funderburg III". The signature is written in a cursive, flowing style.

John L. Funderburg III, M.S., AICP  
Assistant Director of Planning

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Ordinance Rezoning a 1.36-Acre Site	)	
Located at 1160 E. Leland Road from	)	
CC (Community Commercial) to CC-O	)	ORDINANCE NO. 23-1506
(Community Commercial with Limited	)	
Overlay) District, for "Blue Wave Car	)	
Wash, AP-21-1562 (RZ, UP, DR)."	)	

The City Council of the City of Pittsburg DOES ORDAIN as follows:

WHEREAS, on April 2, 2021, Daniel A. Moradel with CEI Engineering Associates, Inc., filed Planning Application No. 21-1562, requesting approval of 1) Zoning Map Amendment from CC (Community Commercial) to establish a Limited Overlay District (CC-O) to conditionally permit Automobile Washing, 2) a Use Permit to establish an automatic Automobile Washing facility, and 3) a Design Review application to construct one 3,600 square foot commercial, self-service car wash building. The project site is located at 1160 E. Leland Road, Assessor's Parcel Number (APN): 088-230-028; and

WHEREAS, Pittsburg Municipal Code (PMC) section 18.16.020 identifies the Planning Commission as the advisory body to the City Council on proposed Zoning Amendments; and

WHEREAS, on December 13, 2022, after conducting a duly noticed public hearing, the Planning Commission adopted Resolution No. 10213, recommending City Council adoption of the proposed amendment as presented; and

WHEREAS, in order to approve a Zoning Amendment, the City Council must find (in accordance with PMC sections 18.16.020 and 18.48.030) that:

1. the amendments are consistent with the objectives, policies, general land uses and programs in the General Plan;
2. the land use regulation is compatible with uses and regulations of the land use district for which it is proposed;
3. there is a community need for the change proposed; and
4. the change will be in conformity with the public convenience, general welfare, and good zoning practice; and

WHEREAS, on or prior to January 27, 2023, notice of the February 6, 2023 Public Hearing was published in the East County Times; was posted at City Hall and on the "Public Notices" section of the City's website; was delivered for posting at the Pittsburg Library; and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the project site, to local service agencies expected to provide services to the facility, and to individuals who had previously filed written request for such notice, in accordance with PMC section 18.14.020 and

Government Code sections 65090 and 65091. In addition, a copy of the notice was posted on [www.nextdoor.com](http://www.nextdoor.com) ("Nextdoor") and was sent directly to all subscribed residents in the "Diamond Hillside", "Los Medanos", "Mosaic Apartments" and the "Stanford Place" Neighborhoods; and

WHEREAS, on February 6, 2023, the City Council held a public hearing on Planning Application No. 21-1562, at which time oral and/or written testimony was considered.

### Section 1. Findings

A. Based on the Planning Commission Staff Report entitled, "Adoption of a City Council Resolution Adopting an Initial Study Mitigated Negative Declaration (ISMND) and Mitigation Monitoring and Reporting Program (MMRP), Introduction and Waive First Reading of an Ordinance Amending the Zoning Map to Establish a Limited Overlay District, and 3) Adoption of a Resolution Approving Use Permit and Design Review Applications for Blue Wave Car Wash, Located at 1160 E. Leland Road, Pittsburg, CA, 94565, AP-21-1562 (RZ, UP, DR)," and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the meeting, the City Council finds that:

1. All recitals above are true and correct and are incorporated herein by reference.
2. The proposed limited overlay district and overlay plan is consistent with and conforms to the General Plan. The project site has a land use designation of 'Community Commercial'. This land use designation is intended to "provide sites for retail shopping areas containing a wide variety of businesses, including retail stores, eating and drinking establishments, commercial recreation, service stations, automobile sales and repair services, financial, business and personal services, motels, education and social services." The proposed overlay district would be consistent with the intent of the Community Commercial land use designation in that the proposed allowable uses within the overlay would be very similar to the existing uses within the Community Commercial Designation, such as auto sales and auto repair uses, which are among the type of businesses envisioned within this land use designation.

The requested Zoning Map Amendment is consistent with the objectives, policies, general land uses, and programs specified in the General Plan, in that:

- A. It will facilitate development on an infill site, thereby helping the City maintain a compact urban form (Goal 2-G-1).
  - B. It will incentive the use of vacant infill land and revitalize an underutilized site (Goal 2-G-6).
  - C. It will allow development in an area where public facilities and infrastructure are already available (Policy 3-P-1).
3. The requested Zoning Map Amendment would be consistent with the uses authorized in, and the regulations prescribed for, the land use district for which it is

proposed, in that other automobile uses are conditionally permitted within the Community Commercial Zoning Designation. Provided the additional automotive uses that are conditionally permitted within the CC District, and the prevalent similarities between the Automobile Washing and the Service Station uses, as defined by the PMC, the proposed Zoning Map Amendment is consistent with the Municipal Code's intended use of properties designated as Community Commercial within the City of Pittsburg. The proposed Limited Overlay for the project site would require that all allowed uses and development standards remain the same as those of the base district (Community Commercial), except with the addition of Automobile Washing as a conditionally permitted use, subject to an approved Use Permit application.

4. The proposed development would help achieve the General Plan's Economic Development Objectives (General Plan, Section 6.1) by expanding the retail sector and encouraging employment growth as it improves the jobs/housing balance. The project would create an additional employment opportunity within the City and generate property and sales taxes to help contribute to the City's revenue stream. As conditioned, the proposed project will both provide a service needed by the community and conform with our City-adopted Design Guidelines.
5. The requested Zoning Map Amendment would facilitate the use of a vacant parcel and help the City achieve its Economic Development Objectives, by enhancing the assessed value of the land and creating additional employment opportunities. While there may be other Automobile Washing facilities in the City, very few provide the opportunity for vacuum cleaning services, a need shared among those living within multi-family development projects without personal use driveways for such activity. Approval of this amendment would assist in facilitating the development of an Automobile Washing facility, a public convenience development project for the area on an underutilized parcel. The requested Zoning Map Amendment will be in conformity with the public convenience, general welfare, and good zoning practice, in that it will facilitate improvement of a blighted area, which could help eradicate existing problems that come with blighted sites, such as illegal dumping and loitering.

## Section 2. CEQA

The proposed project is subject to the California Environmental Quality Act (CEQA), and the CEQA Guidelines (Public Resources Code section 21080). Pursuant to the provisions of the CEQA Guidelines, an Initial Study was prepared for the project. Based on the analysis in the Study, it was determined that potentially significant effects of the project could be lessened through specified mitigations, and subsequently, a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program were prepared.

On August 12, 2022, a Notice of Intent to Adopt a Mitigated Negative Declaration (NOI) was distributed to the public for a 30-day review, in accordance with CEQA Guidelines section 15105(b). Public distribution of the NOI consisted of delivery to the County Clerk's Office, posting on the City's website, and direct mailing to all interested parties and owners/occupants of the properties directly contiguous with the project, in accordance with CEQA Guidelines section 15072. No comments were received within the public comment period.

Section 3. Rezoning

Based on the findings set forth above, the City Council hereby amends the Zoning Map, as referenced in Pittsburg Municipal Code, Title 18 (Zoning Ordinance) Section 18.04.020, to change the zoning for a 1.36-acre site located at 1160 E. Leland Road, from CC District to CC-O (Community Commercial with Limited Overlay) District with an accompanying Overlay Regulations, as shown in Exhibit A and B of this Ordinance.

Section 4. Publication

The ordinance shall be posted and published in accordance with the California Government Code.

The foregoing Ordinance was introduced at a meeting of the City Council of the City of Pittsburg held on February 6, 2023, and was adopted and ordered published at a meeting of the City Council held on February 21, 2023 by the following vote:

- AYES: Adams, Banales, Killings, Scales-Preston
- NOES: None
- ABSTAINED: None
- ABSENT: Lopez



Shanelle Scales-Preston, Mayor

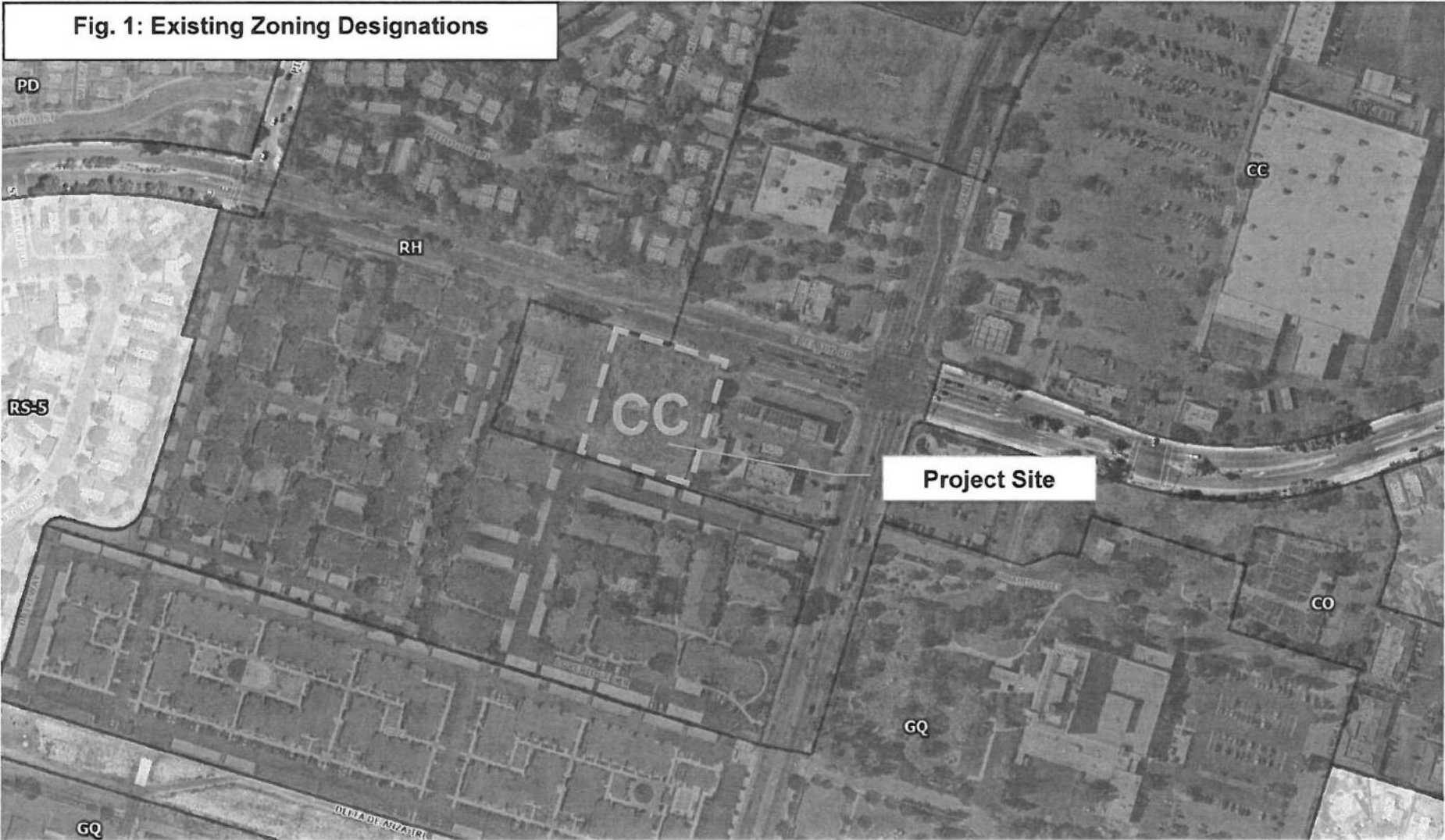
ATTEST:



Alice E. Evenson, City Clerk

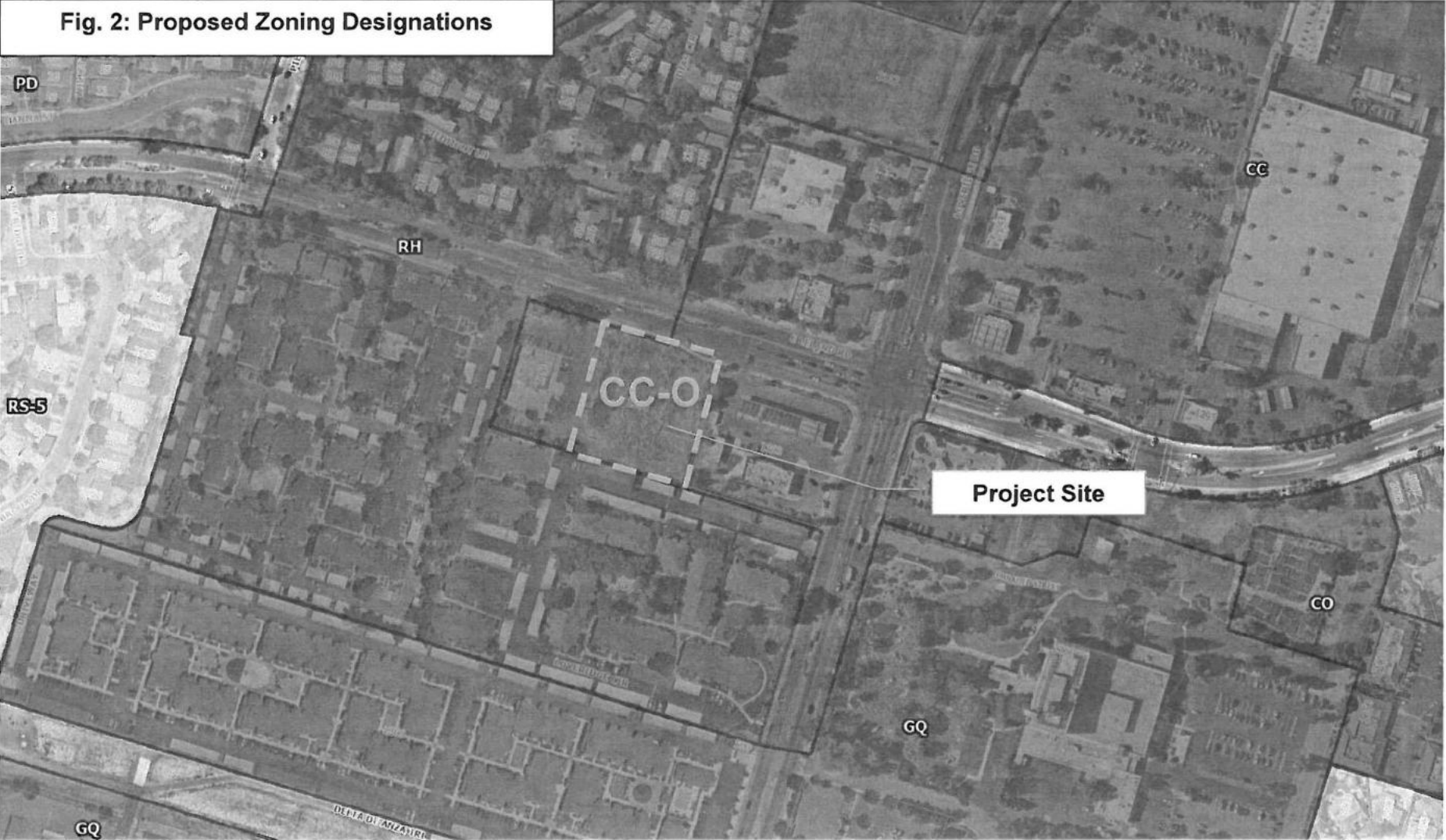
Zoning Map Amendment - Proposed Overlay for AP-21-1562  
(RZ, UP, DR) Blue Wave Car Wash

Fig. 1: Existing Zoning Designations



Zoning Map Amendment - Proposed Overlay for AP-21-1562  
(RZ, UP, DR) Blue Wave Car Wash

Fig. 2: Proposed Zoning Designations



**Overlay Land Use Regulations for AP-21-1562 (RZ, UP,  
DR) Blue Wave Car Wash Zoning Map Amendment**

**CC-O Regulations:**

**Land Use Regulations:**

All allowed uses and development standards shall be the same as those of the base Community Commercial (CC) District, with the addition of Automobile Washing conditionally permitted subject to an approved Use Permit Application, as shown in the table below.

**P = Permitted**  
**U = Use Permit, Planning Commission**  
**T = Temporary Activity Permit**  
**L = Limited (See Additional Use Regulations)**  
**Z = Use Permit, Zoning Administrator**  
**- = Not Permitted**

	CO	CN	CC	CC-O	CS	CSD	CW	CP
Automobile and recreational vehicle repair, major	-	-	-		U	U	-	-
Automobile rental	L-14	L-14	L-14		P	P	L-14	-
Automobile repair, limited	-	-	U		P	P	-	-
Automobile sales	-	U	U		U	U	-	-
Automobile washing	-	-	-	U	U	U	-	-
Recreational vehicle and mobile home sales	-	-	L-140		U	-	-	-
Service station	-	U	U		U	U	-	-
Vehicle storage	-	-	-		U	-	-	-

**Landscaping Regulations:**

All project site landscaping shall follow the Pittsburgh Municipal Code Section applicable to the project's base Zoning District of Community Commercial. Landscaping regulations shall also adhere to all Responsible Agency's regulations, as specified in the Development's MMRP and Conditions of Approval. All landscaping shall be kept up in a healthy, neat, and weed-free, condition. The proposed project site is adjacent to a Residentially Zoned parcel. So long as the Residential Zone and/or Residential Use of the

**Overlay Land Use Regulations for AP-21-1562 (RZ, UP, DR)  
Blue Wave Car Wash Zoning Map Amendment**

adjacent parcel remains, the landscaping along the project site's southern border shall be maintained in a dense manner – offering heightened trees for plantings and dense vegetation, so as to mitigate against any visual or audible impacts to adjacent properties. Additional regulations regarding site landscaping shall be subject to review and modification by the Zoning Administrator.

**Screening Regulations:**

Development shall construct and maintain an 8' masonry wall between the project site and the adjacent Residential Development. It is the responsibility of the Developer to inform the adjacent Residential Development's Property Owner and Manager of the proposed construction of the masonry wall, which will be erected within the 10' required project operation setback. Additional screening regulations shall follow the City of Pittsburg's Development Review Design Guidelines for Screening and the City of Pittsburg's Municipal Code requirements for Screening and Fencing on Site. All final screening materials and finishes shall be subject to review and approval by the Zoning Administrator.

**C.3 Regulations:**

The Project shall adhere to all C.3 regulations prescribed for the project site and maintain compliance with any measures imposed by these Regulations. Detailed information regarding compliance is included in the Project's ISMND, MMRP, and Conditions of Approval. Adherence is subject to review, approval, or modification by the City of Pittsburg Public Works Department or Engineering Division.

**Violation of Regulations:**

Any violation of the proposed CC-O District, MMRP, or Conditions of Approval for the proposed development shall be subject to Administrative Citation as specified in the Pittsburg Municipal Code, and/or revocation of the Business License and/or Use Permit entitlements.



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR  
65 Civic Avenue  
Pittsburg, CA 94565**

**TO:** Mayor and Council Members

**FROM:** Garrett Evans, City Manager

**SUBJECT:** Adoption of a City Council Ordinance Amending the Zoning Map to Establish a Limited Overlay District for Blue Wave Car Wash, Located at 1160 East Leland Road, AP-21-1562 (RZ, UP, DR)

**MEETING DATE:** February 21, 2023

**EXECUTIVE SUMMARY**

On February 6, 2023, the City Council held a public hearing on a request for adoption an Initial Study Mitigated Negative Declaration (ISMND) and Mitigation Monitoring and Reporting Program (MMRP), an amendment to the Zoning Map to establish a Community Commercial District with a Limited Overlay (CC-O) and approval of a Use Permit and Design Review application of landscape and architectural plans to facilitate development of an automobile washing use at 1160 East Leland Road, for the Blue Wave Car Wash. The City Council introduced and waived further reading of an Ordinance approving a Zoning Map amendment for the project. The Ordinance is now ready for City Council adoption.

**FISCAL IMPACT**

As a result of development of the proposed use, the City would see a small increase in property tax revenue generated by the parcel. Further, the project as proposed would require annexation into Community Facilities District (CFD) 2005-01 for public safety services, which would be assessed annually. The project would also be required to pay regional and local traffic mitigation fees.

**RECOMMENDATION**

City Council move to adopt an Ordinance approving a Zoning Map Amendment and associated Overlay regulations for Blue Wave Car Wash (Attachment 1).

**BACKGROUND**

On December 13, 2022, the Planning Commission adopted Resolution No. 10213 recommending City Council approval of the project proposal in its entirety. On February 6, 2023, the City Council held a public hearing on a request for adoption an Initial Study Mitigated Negative Declaration (ISMND) and Mitigation Monitoring and Reporting Program (MMRP), an amendment to the Zoning Map to establish a Community Commercial District

with a Limited Overlay (CC-O) and approval of a Use Permit and Design Review application of landscape and architectural plans. The City Council introduced and waived further reading of an Ordinance to approve a Zoning Map Amendment for the project.

### **SUBCOMMITTEE FINDINGS**

On July 18, 2018, a proposal to establish an automated car wash use at the subject location was presented to the Land Use Subcommittee. Potential concerns identified by the Subcommittee included noise impacts to neighboring residential uses and queuing into East Leland Road. In general, the Subcommittee was supportive of seeing the project move forward.

### **STAFF ANALYSIS**

After the City Council holds a public hearing and introduces an Ordinance on a given matter, approval of the matter is formalized by City Council adoption of the Ordinance by a majority vote at a meeting no fewer than five days after the public hearing. The Ordinance becomes effective 30 days after the date of its adoption.

### **ATTACHMENTS:**

1. Proposed Ordinance – Rezone
  - a. Exhibit A – Zoning Map Amendment
  - b. Exhibit B – CC-O Overlay Regulations

Prepared by: Kelsey Gunter, Associate Planner



the health, safety, and general welfare of the City; c) the proposed use will not adversely affect the orderly development of property within the City; d) the proposed use will not adversely affect the preservation of property values and the protection of the tax base and other substantial revenue sources within the City; e) the proposed use is consistent with the objectives, policies, general land uses and programs specified in the General Plan and applicable Specific Plan; f) the proposed use will not create a nuisance or enforcement problem within the neighborhood; g) the proposed use will not encourage marginal development within the neighborhood; h) the proposed use will not create a demand for public services within the City beyond that of the ability of the City to meet in light of taxation and spending restraints imposed by law; and i) the proposed use is consistent with the City's approved funding priorities; and

WHEREAS, pursuant to PMC section 18.36.230, the City Council, upon recommendation of the Planning Commission, may grant Design Review approval if it finds that: a) the structure conforms with good taste, good design and in general contributes to the character and image of the City as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality; b) the structure will be protected against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable; c) the exterior design and appearance of the structure is not of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value; d) the structure is in harmony with proposed developments on land in the general area; and e) the application conforms with the criteria set forth in any applicable City adopted Design Guidelines; and

WHEREAS, on December 13, 2022, after conducting a duly noticed public hearing, the Planning Commission adopted Resolution No. 10213, recommending City Council adoption of the Initial Study, Mitigated Negative Declaration, Mitigation Monitoring Reporting Program, Zoning Map Amendment, and approval of the Use Permit and Design Review applications prepared for the project; and

WHEREAS, on or prior to Friday, January 27, 2023, in accordance with Government Code sections 65090 and 65091, and PMC section 18.14.020.B, a "Notice of Public Hearing," for the February 6, 2023, public hearing on this item was published in the East County Times; was posted at City Hall; was delivered for posting at the Pittsburg Library; and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the proposed project site, to local service agencies whose services might be affected by this project, and to individuals who had previously filed written request for such notice; and

WHEREAS, on February 6, 2023, the City Council held a duly-noticed public hearing to: 1) Adopt a Resolution Adopting Initial Study Mitigated Negative Declaration (ISMND) and Mitigation Monitoring and Reporting Program (MMRP), 2) Introduce and Waive First Reading of an Ordinance Amending the Zoning Map, and 3) Adopt a Resolution Approving Use Permit and Design Review Applications for Blue Wave Car Wash, Located at 1160 E. Leland Road, Pittsburg, CA, 94565, AP-21-1562 (RZ, UP, DR), at which time oral and/or written testimony was considered.

NOW, THEREFORE, the City Council DOES RESOLVE as follows:

Section 1. Authority

- A. Article XI, Section 7 of the California Constitution confers on cities the authority to regulate land use within their jurisdictions under the police power and to make and enforce ordinances to protect the public health, safety and welfare. Aesthetic reasons alone justify exercise of the police power (Metromedia, Inc. vs. City of San Diego [1980] 264 C3d 848, 164 CR 510).

Section 2. Findings

- A. Based on the City Council staff report entitled, "Adoption of a City Council Resolution Adopting an Initial Study Mitigated Negative Declaration (ISMND) and Mitigation Monitoring and Reporting Program (MMRP), Introduction and Waive First Reading of an Ordinance Amending the Zoning Map to Establish a Limited Overlay District, and 3) Adoption of a Resolution Approving Use Permit and Design Review Applications for Blue Wave Car Wash, Located at 1160 E. Leland Road, Pittsburg, CA, 94565, AP-21-1562 (RZ, UP, DR)," dated February 6, 2023, and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the public hearing, the City Council finds that:

1. All recitals above are true and correct and are incorporated herein by reference.

Use Permit:

2. The proposed Use Permit:
  - a. Will be in accordance with the objectives of the Zoning Ordinance, the purposes of the land use district in which it is located and will be appropriate to the specific location, in that an Automobile Washing facility is a conditionally permitted use in the proposed CC-O Zoning District in which it would be located. The proposed use is appropriate to the location given its proximity to State Route 4, other commercial businesses, and similar uses in the Base District of Community Commercial (CC).
  - b. Will not be detrimental to the health, safety and general welfare of the City, in that the operation of the proposed use does not involve hazardous materials. The Automobile Washing facility would be located within an existing urban area within the City that is developed with other Commercial uses. The project site is accessible by existing roadway, curb, and gutter improvements, such that residential streets would not be impacted by the increase in traffic generated by the use.

- c. Will not affect orderly development, in that the hotel would be constructed on a vacant infill site that is surrounded by existing Residential and Commercial development.
- d. Will not adversely affect the preservation of property values and the protection of the tax base and other substantial revenue sources within the City, but rather would assist surrounding property values by improving a vacant site and contribute to the City's revenue stream with a new Commercial business within the City.
- e. Will be consistent with the General Plan, in that it will facilitate development of a vacant site and ensure that buffers, including landscaping, be used to separate potentially incompatible uses in the E. Leland Subarea of the General Plan. The project would be consistent with General Plan Goals 2-G-1, 2-G-6, 2-P-13, and 3-P-1.
- f. Will not create a nuisance or enforcement problem within the neighborhood, in that it will be required to meet Performance Standards, as set forth by PMC Chapter 18.82. The Standards are intended to address potential ongoing safety, noise, odor, and maintenance concerns.
- g. Will not create a demand for public services within the City beyond that of the ability of the City to meet in light of taxation and spending restraints imposed by law, in that the project site has access to existing infrastructure, including Fire, Police, and Water.
- h. Will not be inconsistent with the City's approved funding priorities, in that it does not require City funding to operate. The proposed development is a private development, to be established with private funding.

Design Review:

- 3. The proposed Project's design:
  - a. Conforms with good taste, good design and in general will contribute to the character and image of the City as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high-quality, in that it will provide an attractive, modern-looking building within a highly-landscaped environment.
  - b. Will protect against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable, if it complies with all applicable Building Codes and the proposed Mitigation Monitoring and Reporting Program, prepared for the project, at time of development.
  - c. Will not be of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value; rather, construction of the Automobile Washing facility should

heighten the appearance of neighborhood, improve property values, and attract additional investment in the area.

- d. Would be in harmony with adjacent commercial development, in that the Automobile Washing facility design consists of a rectangular footprint with staggered walls, a neutral color scheme, and attractive, native-species, densely landscaped surroundings. The building materials would also be complementary, in that they will include cement fiber board, Hardie Board material, and metal accents. The detached equipment and refuse storage structures would be architecturally compatible in terms of colors and materials used to the proposed development.
- e. Will substantially conform to all applicable Development Review Design Guidelines (DRDG, Planning Commission Resolution No. 9864) for commercial development.


B. The City Council Staff Report entitled, " Adoption of a City Council Resolution Adopting an Initial Study Mitigated Negative Declaration (ISMND) and Mitigation Monitoring and Reporting Program (MMRP), Introduction and Waive First Reading of an Ordinance Amending the Zoning Map to Establish a Limited Overlay District, and 3) Adoption of a Resolution Approving Use Permit and Design Review Applications for Blue Wave Car Wash, Located at 1160 E. Leland Road, Pittsburg, CA, 94565, AP-21-1562 (RZ, UP, DR)," dated February 6, 2023, is referenced hereto as additional support for findings.

Section 3. Decision

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pittsburg hereby Adopts a Resolution Adopting Use Permit and Design Review Applications for Blue Wave Car Wash Located at 1160 E. Leland Road, Pittsburg, CA, 94565, AP-21-1562 (RZ, UP, DR) subject to the Conditions of Approval as substantially presented in Exhibit A of this Resolution.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 6th day of February 2023, by the following vote:

AYES:	Adams, Banales, Killings, Lopez, Scales-Preston
NOES:	None
ABSTAINED:	None
ABSENT:	None

  
Shanelle Scales-Preston, Mayor

ATTEST:  


Alice E. Evenson, City Clerk  
Resolution No. 23-14237

**Exhibit A – Conditions of Approval for proposed City Council Resolution for  
Blue Wave Car Wash, AP-21-1561 (RZ, UP, DR)**

**February 6, 2023**

Planning Condition(s):

- a. **Conformity with Project Plans:** The proposed project shall be constructed in substantial conformity with the Architectural Plans dated July 8, 2022, Landscaping Plan dated July 8, 2022, Exterior Design Plans January 25, 2022, and Lighting and Photometric Plan Dated February 10, 2021, except as may be hereinafter modified. Any major changes to the project plans shall be subject to review and approval by the Planning Commission at the City Planner's discretion.
- b. **Landscape Plans:** The applicant shall install landscaping in substantial compliance with the final Landscape Plan dated July 8, 2022, which identifies the total landscaped area, plant species and quantities. This shall be installed and maintained in conformance with Pittsburg Municipal Code section 18.84.308. A minimum of 10% of the site must be landscaped.
- c. **Landscape Maintenance:** The applicant or subsequent business owner or operator shall be responsible for maintaining landscaping in accordance with the approved landscape plan dated July 8, 2022. Amendments or modifications to the approved landscape plan shall be submitted to the City Planner for approval.

Any elevation of the proposed building that contains blank walls shall install landscaping and/or lattice material to minimize the visual impact of those walls. Landscaping on site and along any blank walls shall be maintained in good, healthy condition.

- d. **Bicycle Parking:** Pursuant to Pittsburg Municipal Code Section 18.78.045, the applicant shall maintain permanent, fixed bicycle racks or lockers for a minimum of four bicycles. The final design and location of any new bicycle rack(s) shall be subject to review and approval by the Planning Division.
- e. **Photometric Plan:** The developer shall maintain substantial conformance with the lighting and photometric plans dated February 10, 2021. This plan shows the location and type of all outdoor lighting. Final location and design shall be subject to review and approval by the Planning Division prior to installation.
- f. **Lighting:** All lighting shall be arranged to reflect light away from adjoining properties and public rights-of-way. In general, lighting fixtures shall be shielded to prevent glare on adjoining properties and public rights-of-way.
- g. **Sign Permits:** Building signage is not approved with this Resolution. The applicant or business operator(s) shall submit proposed signs as part of separate, ministerial Sign Review Permit, which shall be subject to review and approval by the Planning Division prior to installation.

**Exhibit A – Conditions of Approval for proposed City Council Resolution for  
Blue Wave Car Wash, AP-21-1561 (RZ, UP, DR)**

**February 6, 2023**

- h. **Trash Enclosure:** The trash enclosure on site shall be consistent with the City of Pittsburgh Trash Enclosure Design Standards and accommodate for refuse recycling and organics, pursuant to Senate Bill 1383 of 2016. The final design, materials and location of the trash enclosure shall be subject to review and approval by the Planning Division.
- i. **Equipment Enclosure:** The proposed vacuum equipment enclosures shall be constructed and designed in substantial conformance with the project plans.
- j. **Peace and Order:** The business operators shall be responsible for maintaining the peace and order on the premises. All necessary steps shall be taken to ensure that the customers refrain from incidents of violence that adversely impact the safety of the community. Should the business operators fail to control loitering, noise, public disturbances or incidents of violence, and in the event that the business necessitates an increased police presence, the Chief of Police may require the business owners to provide additional public safety measures, including but not limited to, video cameras, additional exterior lighting, hiring licensed and bonded security guards approved by the Police Department, or such other measures as determined necessary by the Chief of Police. Any such required additional measures shall be at the business owner's/operator's sole expense.
- k. **Site Maintenance:** The site shall be kept clean and free of all graffiti, litter, debris and refuse at all times. All landscaping on site shall be kept weed free and maintained in a healthy and thriving condition. Outdoor storage shall be prohibited.
- l. **Screening:** Development shall construct and maintain an 8' masonry wall between the project site and the adjacent Residential Development pursuant to PMC Section 18.52.140. It is the responsibility of the Developer to inform the adjacent Residential Development's Property Owner and Manager of the proposed construction of the masonry wall, which will be erected within the 10' required project operation setback. Additional screening regulations shall follow the City of Pittsburgh's Development Review Design Guidelines for Screening and the City of Pittsburgh's Municipal Code requirements for Screening and Fencing on Site. All final screening materials and finishes shall be subject to review and approval by the Zoning Administrator.
- m. **Utility Screening:** All air conditioning units, utility boxes, transformers, backflow preventers, meters, and junction boxes shall be substantially screened from public view using a block or retaining wall screen, wood/architectural screen, or dense landscaping screen consistent with Appendix 1 of the City of Pittsburgh Development Review Design Guidelines (Planning Commission Resolution No. 9864). Compliance with this condition shall be shown on the construction drawings and Improvement Plans submitted for Building and Engineering Permits, and the final design shall be subject to review and approval by the Community and Economic Development Department prior to issuance of said permits.

**Exhibit A – Conditions of Approval for proposed City Council Resolution for  
Blue Wave Car Wash, AP-21-1561 (RZ, UP, DR)**

**February 6, 2023**

- n. Gutters & Downspouts: All gutters and downspouts shall be placed behind exterior walls, consistent with Guideline IV.m of the City of Pittsburg Development Review Design Guidelines (Planning Commission Resolution No. 9864). Final gutter and/or downspout placement shall be identified on the construction drawings and shall be subject to review and approval by the Community and Economic Development Department prior to issuance of a Building Permit.
- o. Code Compliance: The proposed development shall be constructed in conformance with all applicable Codes, fees, and requirements at time of Development (Building/Grading Permit).
- p. Mitigation Monitoring and Reporting Program: Proposed project and any subsequent business or business owner shall maintain strict compliance with the Mitigation Monitoring and Reporting Program, included as Exhibit C of this Resolution.
- q. CC-O Regulations (Zoning Map Amendment): Proposed project and any subsequent business or business owner shall maintain strict compliance with the proposed CC-O regulations, included as Exhibit D of this Resolution.

Environmental Mitigation Measure(s):

- a. The proposed project shall comply with the Mitigation Monitoring and Reporting Program Measures included as Exhibit C of this Resolution.

City of Pittsburg Engineering Division Condition(s):

- a. Improvement and Grading Plan Review fees. The applicant shall provide an initial payment for review of the grading and improvement plans with the first submittal. These fees are based on the engineer's estimated costs for site improvements and grading, which shall be submitted with the plans. The improvement plan check fee is 7% of the cost of the improvements. The grading plan check fee is 2.5% of the cost for grading, or it may be based upon cubic yards of earth disturbance as set forth in the City's Master Fee Schedule. Fifty percent (50%) of these total fees are to be paid with the initial submittal of plans and engineer's cost estimate. These initial payments will be credited towards the final fees as determined at engineering permit. The remainder of the fees shall be due payable prior to issuance of an engineering permit.
- b. Improvement and Grading Inspection fees. The applicant shall pay the improvement and/or grading inspection fee(s) to the Engineering Division prior to the issuance of a single parcel development permit. The current improvement inspection fee is 6.75% of the engineer's estimated cost for improvements. The grading inspection fee is 3% of the engineer's estimated cost of grading. The grading inspection fee may also be based upon an approved engineer's estimate of total cubic yards, according to the current schedule of grading fee charges as set forth in the City's Master Fee Schedule.

**Exhibit A – Conditions of Approval for proposed City Council Resolution for  
Blue Wave Car Wash, AP-21-1561 (RZ, UP, DR)**

**February 6, 2023**

- c. Facility Reserve Charge. Prior to the issuance of a building permit, the applicant shall pay the City of Pittsburg Facilities Reserve Charge (PMC Chapters 13.08, 13.12 and 13.24) (the “FRC”) to the Engineering Division for water and sewer service in the amounts in effect at the time of building permit issuance. The applicant understands that the current FRC on file, effective August 20, 2005, shall be paid in accordance with the fee schedule approved by Resolution No. 05-10290, and amended by Resolution No. 12-11778, on February 21, 2012, a copy of which is available at the City.
- d. Local Traffic Mitigation Fee. Prior to issuance of a building permit, the applicant shall pay the Local Transportation Mitigation Fee (PMC Chapter 15.90) (the “LTMF”) amount in effect at the time of building permit issuance. The applicant understands that the LTMF is reviewed and adjusted annually to the current Construction Cost Index (CCI) and may be increased at the City Council’s discretion based on revised cost estimates for roadway and transit facilities and other factors that demonstrate an increase is needed to offset traffic impacts caused by new development. The LTMF is calculated by dividing the total fee share of improvement costs by the total number of Dwelling Unit Equivalencies (“DUE”) in the City, as described in PMC Chapter 15.90 and the Pittsburg Local Transportation Mitigation Fee Program Update, copies of which are available from the City.
- e. Regional Traffic Mitigation Fee. Prior to issuance of a building permit, the applicant shall pay the Regional Transportation-Development Impact Mitigation Fee (PMC Chapter 15.103) (the “RTDIM”) amount in effect at the time of building permit issuance. The RTDIM will be automatically increased or decreased on January 1 of each year based on the percent change in the Engineering News-Record Construction Costs Index – San Francisco Bay Area, between September 1 and September 1 of the preceding two calendar years.
- f. GIS Update. Prior to the issuance of an engineering permit, the applicant shall pay the Geographic Information System (GIS) fee as set forth in the City’s Master Fee Schedule. The current fee is \$119 plus \$0.06/sf of parcel improvements for non-residential uses.
- g. Supplemental Studies. If additional engineering studies are deemed necessary by the City Engineer, i.e., geotechnical, structural, hydraulic, etc., or expedited reviews are requested by the applicant, the applicant shall pay for all costs related to the extra work. The costs shall be paid at the time of first plan check submittal, and they may include all costs associated with the preparation of special studies, additional staff time, and/or reviews of the special studies if studies are prepared by the applicant’s engineer.

**ENGINEERING SUBMITTALS:**

- h. Improvement Plans. The applicant shall submit electronic, pdf. files of the engineering plans to the Engineering Division for review and approval through the

**Exhibit A – Conditions of Approval for proposed City Council Resolution for  
Blue Wave Car Wash, AP-21-1561 (RZ, UP, DR)**

**February 6, 2023**

Accela permitting portal. The plans shall be prepared by a registered civil engineer, to include but not be limited to the following:

- A Site Plan
  - A Grading and Drainage Plan
  - A Utilities Plan
  - A Landscaping and Irrigation Plan
  - A Stormwater Control Plan and Report
  - An Erosion and Sedimentation Control Plan
  - Offsite Improvements due to Project Impacts
- i. Geotechnical Report. The applicant shall submit a current geotechnical report that supports the design features incorporated into this project including, but not limited to, grading activities, compaction requirements, utility construction, slopes, retaining walls, and roadway sections. The geotechnical report shall be submitted to the Engineering Division for review prior to the approval of any civil plans and/or the issuance of a site development permit.
- j. Stormwater Pollutants. The applicant shall incorporate long-term best management practices (BMP's) for the reduction or elimination of storm water pollutants. The project design shall incorporate wherever feasible, the following long term BMPs to limit pollutant generation, discharge, and runoff. Such source control design measures may include:
- Incorporating landscaping that minimizes irrigation and runoff, promotes surface infiltration where possible, minimizes the use of pesticides and fertilizers, and incorporates appropriate sustainable landscaping practices.
  - Providing covered trash, food waste, and compactor enclosures.
  - Using pavers for walkways and other appropriate hardscape surfaces to minimize impervious areas.
  - Minimizing the amount of directly connected impervious surface area.
  - Marking all storm drains with "No Dumping, Drains to Delta" messages.
  - Constructing concrete driveway weakened plane joints at angles to assist in directing run-off to landscaped/pervious areas prior to entering the street curb and gutter.
  - Plumbing of the following discharges to the sanitary sewer, subject to Delta Diablo's authority and standards:
    - ✓ Discharges from indoor floor mat/equipment/hood filter wash racks or covered outdoor wash racks for restaurant.
    - ✓ Dumpster drips from covered trash and food compactor enclosures.
    - ✓ Discharges from outdoor covered wash areas for vehicles, equipment, and accessories.
    - ✓ Fire sprinkler test water if discharge to onsite vegetated areas is not a feasible option.

**Exhibit A – Conditions of Approval for proposed City Council Resolution for  
Blue Wave Car Wash, AP-21-1561 (RZ, UP, DR)**

**February 6, 2023**

- k. Stormwater Pollution Protection During Construction. Prior to the issuance of a grading permit, the applicant shall submit an Erosion and Sedimentation Control Plan or Stormwater Pollution Prevention Plan (if the project requires a permit from the State Water Resources Control Board under the provisions of the General Construction Permit) to the Engineering Division for review. The Stormwater Pollution Prevention Plan measures shall also include measures to prevent soil, dirt, and debris from entering the storm drain system, in accordance with California Stormwater Quality Association's (CASQA's) construction handbook.
- l. Stormwater Control Plan. Grading, improvement, and/or building plans shall be consistent with the approved Stormwater Control Plan. The C.3 treatment facilities shall be adequately sized to treat the stormwater runoff from the associated drainage management areas and incorporate adequate designs to comply with current hydrograph modification requirements. The grading, improvement, and landscaping plans shall include drawings and specifications necessary to implement all measures in the Stormwater Control Plan. Design features should incorporate low impact development design standards as outlined in the most current edition of the Contra Costa Clean Water Program's C.3 Guidebook. These features include limiting directly connected impervious area, and incorporating pervious pavements, self-retaining areas, treatment BMPs, permanent stormwater control BMPs, and other features that control stormwater flow and potential for stormwater pollutants. Grading and/or building permits shall not be issued until this condition is met to the satisfaction of the Engineering and Planning Divisions.
- m. Operations and Maintenance Plan. The applicant shall submit a Stormwater BMP Operation and Maintenance Plan for the continuous maintenance of all C.3 facilities constructed to meet the C.3 requirements of the project. The final plan shall be submitted to the Engineering Division prior to the certificate of occupancy.
- n. Operation and Maintenance Agreement and Right of Entry. The applicant shall execute the Operations and Maintenance Agreement and Right of Entry, which pertain to the transfer of ownership and / or long-term maintenance of stormwater treatment BMPs or hydrograph modification BMPs prior to the issuance of a certificate of occupancy. The Guidelines for the preparation of Stormwater BMP Operation and Maintenance Plans are found on the Contra Costa County Clean Water Program website ([www.cccleanwater.org](http://www.cccleanwater.org)) or the Stormwater C.3 Guidebook, most current edition.

**UTILITIES:**

- o. Off-Site Capacity Evaluation. The applicant shall evaluate the existing, receiving storm, sewer, and water facilities for adequate capacity and provide the results to the City to identify any service or supply problems. The cost for installation of additional facilities required to be constructed to accommodate the project shall be borne by the applicant.

**Exhibit A – Conditions of Approval for proposed City Council Resolution for  
Blue Wave Car Wash, AP-21-1561 (RZ, UP, DR)**

**February 6, 2023**

- p. Applicant shall locate and construct all wet utilities in conformance with the City standard Plans and Specifications in effect at the time of permit application submittal.
- q. The applicant shall provide frontage improvements, sidewalk and driveway approach in accordance with current City standard specifications and provisions. The sidewalk along Leland Road, fronting the project site shall be widened to 10 feet.

**ENGINEERING EXACTIONS (CFD inclusion):**

- r. Annexation Documentation for CFD 2005-1. The applicant shall agree to annex into the Community Facilities District 2005-1, which is for public safety services. The fees collected will provide funding for an increase of police coverage in the area. The rate of the CFD 2005-1 fee is subject to City Council Resolution No. 05-10342. The applicant shall deliver written approval in a manner acceptable to the Community Development Director, that the owner of the parcel is electing to annex the subject property into the 2005-1 Public Safety Services Community Facilities District (CFD 2005-1), prior to the issuance of any building or engineering permits.
- s. Annexation Documentation for CFD 2017-1. The applicant shall agree to annex into the Community Facilities District 2017-1, which is for fire facilities and fire safety and emergency services. The rate of the CFD 2017-1 fee is subject to City Council Resolution No. 17-13311. The applicant shall deliver written approval in a manner acceptable to the Community Development Director, that the owner of the parcel is electing to annex the subject property into the 21017-1 Fire Facilities and Fire Safety and Emergency Services Community Facilities District (CFD 2017-1), prior to the issuance of any building or engineering permits.

**Contra Costa County Hazardous Materials Condition(s):**

- a. There are no permits needed through the Hazardous Materials Programs prior to opening the business based on the submitted information. Once the facility is built and running, however, the business may require a hazardous materials business plan permit through the Hazardous Materials Programs. Please contact [cccchazmat@ccchealth.org](mailto:cccchazmat@ccchealth.org) or (925) 655-3200 for further information.

**Contra Costa County Fire Protection District Condition(s):**

- a. The Contra Costa County Fire Protection District has development impact fees established in the unincorporated County and in the Cities of Antioch and Pittsburg. Projects within the development impact areas will need to pay the fees prior to Building Permit issuance.
- b. Access as shown on plans complies with Fire District requirements. Provide emergency apparatus access roadways with all-weather (paved) driving surfaces of not less than 20-foot unobstructed width, and not less than 13 feet 6 inches of vertical clearance, to within 150 feet of travel distance to all portions of the exterior walls of

**Exhibit A – Conditions of Approval for proposed City Council Resolution for  
Blue Wave Car Wash, AP-21-1561 (RZ, UP, DR)**

**February 6, 2023**

every building. Access shall have a minimum outside turning radius of 45 feet and must be capable of supporting the imposed fire apparatus loading of 37 tons. Access roadways shall not exceed 20% grade. Grades exceeding 16% shall be constructed of grooved concrete per the attached Fire District standard. (503) CFC

- c. Access roadways of less than 28-feet unobstructed width shall have signs posted or curbs painted red with the words NO PARKING - FIRE LANE clearly marked. {22500.1) CVC, (503.3) CFC. Access roadways of 28 feet or greater, but less than 36-feet unobstructed width shall have NO PARKING - FIRE LANE signs posted, allowing for parking on one side only or curbs painted red with the words NO PARKING - FIRE LANE clearly marked. (22500.1) eve, {503.3} CFC
- d. Access gates for Fire District apparatus shall be a minimum of 20-feet wide. Access gates shall slide horizontally or swing inward and shall be located a minimum of 30 feet from the street. Electrically operated gates shall be equipped with a Knox Company key-operated switch. Manually operated gates shall be equipped with a non-casehardened lock or approved Fire District lock. Contact the Fire District for information on ordering the key operated switch. (D103.5) CFC.
- e. The developer shall provide an adequate and reliable water supply for fire protection as set forth in the California Fire Code. (507.1) CFC
- f. A land development permit is required for access and water supply review and approval prior to submitting building construction plans. The developer shall submit a minimum of two (2) copies of full size, scaled site improvement plans indicating:
  - 1. All existing or proposed hydrant locations,
  - 2. Fire apparatus access to include slope and road surface
  - 3. Elevations of building,
  - 4. Size of building and type of construction,
  - 5. Gates, fences, retaining walls, bio-retention basins, any obstructions to access.
  - 6. Detail showing the lowest level of fire department vehicle access and the floor level of the highest occupied floor,
  - 7. Striping and signage plan to include "NO PARKING-FIRE LANE" markings
  - 8. Provide drawings for paths from the public way to under emergency escape and rescue openings showing a proposed clear path and clear space under these openings that allow for the placement of ground ladders at a climbing angle of 70 to 75 degrees and a minimum of 18" clearance from the base of the ladder to any obstruction (see attached ground ladder access standard) for review and approval prior to obtaining a building permit.
- g. This is a separate submittal from the building construction plans. These plans shall be approved prior to submitting building plans for review. (501.3) CFC

**Exhibit A – Conditions of Approval for proposed City Council Resolution for  
Blue Wave Car Wash, AP-21-1561 (RZ, UP, DR)**

**February 6, 2023**

- h. Emergency apparatus access roadways and hydrants shall be installed, in service, and inspected by the Fire District prior to construction or combustible storage on site. (501.4) CFC

Note: A temporary aggregate base or asphalt grindings roadway is not considered an all-weather surface for emergency apparatus access. The first lift of asphalt concrete paving shall be installed as the minimum roadway material and must be engineered to support the designated gross vehicle weight of 22 / 37 tons.

- i. New buildings shall have approved radio coverage for emergency responders. An emergency responder radio coverage system shall be installed when the conditions of CFC 510.4.1 are not met. Testing shall be conducted, and the results submitted to the Fire District prior to the building final. (510.1) CFC
- j. The developer shall provide traffic signal pre-emption systems (Opticom) on any new or modified traffic signals installed with this development. (21351) CVC
- k. Flammable or combustible liquid storage tanks shall not be located on the site without obtaining approval and necessary permits from the Fire District. (3401.4) CFC
- l. The owner shall cut down and remove all weeds, grass, vines, or other growth that is capable of being ignited and endangering property. (304.1.2) CFC
- m. The owner or the owner's authorized agent shall be responsible for the development, implementation and maintenance of a written plan in compliance with NFPA 241, establishing a fire prevention program at the project site applicable throughout all phases of the construction. The plan shall be made available for review by the fire code official upon request. (Ch.33) CFC
- n. The fire prevention program superintendent shall develop and maintain an approved prefire plan in cooperation with the fire chief. The fire chief and fire code official shall be notified of changes affecting the utilization of information contained in such prefire plans. (Ch.33) CFC
- o. The developer shall submit a minimum of two (2) complete sets of building construction plans and specifications for the subject project to the Fire District. After the new construction/ tenant improvement plans are approved, plans and specifications for all deferred submittals shall be submitted, including, but not limited to the following.

- Carbon Dioxide Systems
- Aboveground/underground flammable/combustible liquid storage tanks
- Commercial kitchen hood extinguishing systems
- Spray booths
- Special suppression systems

**Exhibit A – Conditions of Approval for proposed City Council Resolution for  
Blue Wave Car Wash, AP-21-1561 (RZ, UP, DR)**

**February 6, 2023**

- Emergency Responder Radio Coverage System (ERRCS)
- p. Plans shall be submitted to the Fire District for review and approval prior to construction of the building or installation of the systems to ensure compliance with minimum requirements related to fire and life safety. Plan review and inspection fees shall be submitted at the time of plan review submittal. (105.4.1) CFC, (901 .2) CFC, (107) CBC
- q. CONTACT THE FIRE DISTRICT (MINIMUM 2 WORKING DAYS IN ADVANCE) AT 925-941-3300 EXT 3902 TO SCHEDULE AN INSPECTION OF THE ACCESS AND HYDRANT INSTALLATION PRIOR TO CONSTRUCTION OR THE STORAGE OF COMBUSTIBLE MATERIALS ON THE JOB SITE.

Standard Conditions:

- a. Grounds for Revocation: Operation in a manner inconsistent with that described in the Report, violation of a zoning regulation or condition of this Resolution, existence of a public nuisance, or conviction of a federal or state law or City ordinance in connection with the operation of the use shall be Grounds for Revocation of the Use Permit (PMC section 18.28.100).
- b. Standard Conditions of Development: The Standard Conditions of Development as adopted by the Pittsburg Planning Commission by Resolution No. 8931 shall apply as Conditions of Approval for this project as applicable. Where there is a conflict between the Standard Conditions of Development and the project-specific conditions identified in this resolution, the specific conditions of this Resolution shall govern.
- c. Other Agency Requirements: The applicant shall comply with all the requirements of the City's Community and Economic Development Department, Contra Costa County Fire Protection District, and all other applicable local, state and federal agencies. It is the responsibility of the applicant to contact each local, state, or federal agency for requirements that may pertain to this project.
- d. Indemnification: The applicant agrees to indemnify, defend, and hold harmless the City, its officials, officers, employees, agents and consultants from any and all administrative, legal or equitable actions or other proceedings instituted by any person challenging the validity of this project approval, subsequent project approval, or other action arising out of, or in connection with, this project approval. The parties shall cooperate in defending such action or proceeding. The parties shall use reasonable efforts to select mutually agreeable defense counsel but, if the parties cannot reach agreement, City may select its own legal counsel at applicant's sole cost and expense. The applicant may select its own legal counsel to represent the applicant's interests at the applicant's sole cost and expense. The applicant shall pay for City's costs of defense, whether directly or by timely reimbursement to City on a monthly basis. Such costs shall include, but not be limited to, all court costs and

**Exhibit A – Conditions of Approval for proposed City Council Resolution for  
Blue Wave Car Wash, AP-21-1561 (RZ, UP, DR)**

**February 6, 2023**

attorneys' fees expended by City in defense of any such action or other proceeding, plus staff and City Attorney time spent responding to and defending the claim, action or proceeding.

- e. Expiration of Approval: Use Permit and Design Review approval will expire on February 6, 2026, unless a Building Permit or Grading Permit has been issued or a written request for extension is filed with the Planning Division prior to the expiration date and subsequently approved by the Planning Commission. The approval shall be valid for no more than six months from the date of Building or Grading Permit issuance unless work is commenced and diligently pursued prior to the expiration of the Building or Grading Permit. The term of the Use Permit approval shall be co-terminus with the Design Review approval for this project.

## **EXHIBIT 3**

**Appendix H:  
Transportation Analysis**

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July 28, 2021

Ms. Mary Bean  
First Carbon Solutions (FCS)  
1350 Treat Boulevard, Suite 380  
Walnut Creek, CA 94597

## **Focused Transportation Analysis for the BlueWave Carwash Express Project**

Dear Ms. Bean;

As requested, W-Trans has prepared a focused transportation analysis for the proposed BlueWave Carwash Express project to be located at 1160 East Leland Road in the City of Pittsburg. The purpose of this letter is to address the project's potential traffic impacts, site access, circulation, and on-site queuing.

### **Existing Conditions**

In the City of Pittsburg, East Leland Road is a four-lane arterial that runs east-west between Railroad Avenue and Century Boulevard. Along the project frontage the roadway has a speed limit of 40 miles per hour (mph) and two 11-foot vehicle travel lanes in each direction separated by a raised median. It also has a 5-foot bicycle lane and continuous sidewalk in both directions of travel.

### **Project Description**

The proposed project would include an automated car wash facility with 22 self-service vacuum stalls on a vacant parcel located between an existing medical office building at 1150 East Leland Road and a gas station at 1190 East Leland Road. Customers would access the project site via an existing driveway on East Leland Road which is shared with the medical office building to the west of the site. Patrons would also have access to the site through the gas station east of the site. The car wash structure consists of a 3,600 square foot building which uses a conveyor style operation. The proposed project site plan is enclosed.

### **Trip Generation**

The anticipated trip generation for the proposed project was estimated using standard rates published by the Institute of Transportation Engineers (ITE) in *Trip Generation Manual*, 10<sup>th</sup> Edition, 2017 for "Automated Car Wash" (ITE LU 948). The peak hour is anticipated to occur during the weekend midday which is common for similar land uses. The project site is located on a currently vacant lot and therefore no trip credits were assigned for an existing land use.

### **Pass-by Trips**

Some portion of traffic associated with the car wash would be drawn from existing traffic on East Leland Road. These vehicle trips are not considered "new," but would instead be comprised of drivers who are already driving on the adjacent street system and choose to make an interim stop and are referred to as "pass-by." The percentage of these pass-by trips was based on information provided in the *Trip Generation Handbook*, 3<sup>rd</sup> Edition, Institute of Transportation Engineers, 2017. Since the *Handbook* does not provide a pass-by trip percentage for an Automated Car Wash, the pass-by trip percentages for Gasoline Service Station (ITE LU 944) were used as a reference. To provide a conservative estimate, it was assumed that 25 percent of the proposed car wash trips would be pass-by trips, which is lower than the pass-by trip percentage of 44 percent for the Gasoline Service Station land use.

## Total Project Trip Generation

The expected trip generation potential for the proposed project is indicated in Table 1, with deductions taken for pass-by trips. The proposed project is expected to generate an average of 110 trips during the weekend peak hour. After deductions are taken into account, the project would be expected to generate 82 trips during peak hour.

Table 1 – Trip Generation Summary					
Land Use	Units	Weekend Peak Hour			
		Rate	Trips	In	Out
<b>Proposed</b>					
Automated Car Wash	3.6 ksf	30.40	110	55	55
<i>Pass-by</i>		-25%	-28	-14	-14
<b>Total</b>			<b>82</b>	<b>41</b>	<b>41</b>

Note: ksf = 1,000 square feet

## Site Access and Circulation

The site would not result in the construction of any new driveways as access would take place via an existing driveway shared with the medical office as well as from the adjacent gas station.

## Sight Distance

At driveways, a substantially clear line of sight should be maintained between the driver of a vehicle waiting to enter the street and the driver of an approaching vehicle. Sight distances along East Leland Road at the project driveway were evaluated based on sight distance criteria contained in the *Highway Design Manual* published by Caltrans. The recommended sight distances for driveway approaches are based on stopping sight distance and use the approach travel speed as the basis for determining the recommended sight distance.

Since East Leland Road has a posted speed limit of 40 mph, the recommended stopping sight distance is 300 feet. Sight distance at the project driveway extends over 300 feet to the west along level and unobstructed terrain. Sight lines to the east were not measured as egress is limited to right turns only by the existing center median island.

**Finding** – Sight distance along East Leland Road at the project driveway is adequate based on existing conditions.

**Recommendation** – It is recommended that any trees and vegetation near the project driveway on East Leland Road be trimmed as necessary to maintain adequate sight distance at the driveway.

## Emergency Access

Emergency response vehicles would be able to access the site via the project driveway on East Leland Road. The proposed 35-foot wide driveway and drive aisles meet current City standards and so can be expected to accommodate the access requirements for both emergency and passenger vehicles.

**Finding** – Emergency access is expected to operate acceptably.

## On-Site Circulation

The access and circulation associated with the project site was assessed to determine if the site's layout would provide adequate space and drive aisles for vehicles to maneuver throughout the site. Based on a review of the site plan, the internal drive aisle that connects the driveway to the car wash pay stations would have three one-way lanes and a width of 47 feet, which would provide adequate space for vehicles to transition to a single 14-foot lane to access the car vacuum or car wash facility. There would also be a bi-directional 30-foot wide drive aisle between the self-service vacuum stalls that would allow customers to maneuver their vehicles into and out of each service stall. Per the *City of Pittsburg Municipal Code 18.78.050; Parking Facility Design Standards*, the required minimum width of a two-way traffic drive aisle providing access to perpendicular parking spaces is 25 feet. The project drive aisle would meet this requirement.

The transitional area between the pay stations and car wash tunnel includes a relatively small area where three lanes merge into a single lane. To minimize the potential for conflicts if multiple vehicles exit the pay area simultaneously, it is recommended that a gate be installed at the egress of each pay station which is intended to control and spread out the movement of vehicles between these two areas.

**Finding** – Vehicle access and internal circulation within the project site would be adequate. A gate is recommended at each pay station to control vehicle movements and alleviate the potential for conflicts.

## Queuing Analysis

A queuing analysis was conducted to identify the potential queuing of vehicles accessing the project site and to determine whether vehicles waiting to access the car wash would spill back onto East Leland Road. Since the project site includes three distinct areas, an automated car wash, self-service vacuum stations and a pay station, the queuing analysis was divided into three parts.

The 95<sup>th</sup>-percentile queue is generally applied as the acceptable limit for on-site circulation impacts. To assess the potential queuing for the site, factors such as the storage capacity, arrival rate and service rate were considered. The arrival rate is defined as the number of patrons arriving at the facility per hour. Similarly, the service rate is defined as the number of patrons served within an hour. The applied service rate was based on data regarding the typical time needed to completely service each vehicle.

### *Pay Station*

For the queuing at the three pay stations a storage capacity of 24 vehicles was assumed (three lanes able to store eight vehicles in each lane) before a queue would spill back into the shared drive aisle. A service rate of 20 vehicles per hour was assumed, which is based on the assumption that it takes three minutes to complete a transaction for each car.

Based on the trip generation estimate, a maximum arrival rate of 55 vehicles per hour was applied to the analysis. Applying these rates produced a calculated 95<sup>th</sup> percentile queue length of 10 vehicles, which can be accommodated by the pay station approach lanes which have a 24-vehicle capacity. The queuing calculation worksheet is enclosed for reference.

### *Automated Car Wash*

The approximately 175-foot drive aisle connecting the pay stations and the entrance to the car wash tunnel can accommodate a queue of seven vehicles. The automated car wash facility would employ a conveyor style operation which has a capacity to wash up to three vehicles in close succession within the tunnel structure. According to the site operator, the car wash tunnel is capable of processing approximately one vehicle per minute (or 60 vehicles per hour) during peak operations. Based on the peak hour trip generation, the maximum arrival rate would be 55 vehicles per hour. If the car wash facility is in use when a customer is at the pay station, they

would wait in line within the driveway between the pay station and the car wash entrance, or wait for their turn in one of the three lanes approaching the pay stations.

Applying these rates produced a calculated 95<sup>th</sup> percentile queue length approaching the car wash entrance of seven vehicles, which is equal to the storage capacity of the drive aisle between the pay stations and car wash entrance. The queuing calculation worksheet is enclosed for reference.

*Self-Service Vacuum Area*

The vacuum area is comprised of 22 self-service spaces. These spaces can serve at least 88 cars per hour assuming a typical vacuum service can be completed in 15 minutes or less. Therefore, the 22-space service area would provide adequate capacity since the serving capacity of 88 cars per hour is greater than the trip generation of 55 cars per hour. This is a conservative analysis since it is recognized that only a portion of all customers purchasing a car wash would also use the vacuum service.

**Finding** – Based on the assumed arrival and service rates, the proposed on-site vehicle storage capacity is expected to adequately accommodate the vehicle queue in all areas of the site, and no spillover onto East Leland Road is anticipated.

**Conclusions and Recommendations**

- The proposed project is expected to generate an average of 82 new peak hour trips during the weekend day.
- Vehicle access and internal circulation at the project site would be adequate. A gate is recommended at each pay station to control vehicle movements and alleviate the potential for conflicts.
- Sight distances at the project driveway are adequate based on existing conditions. It is recommended that any trees and vegetation near the project driveway on East Leland Road be trimmed as necessary to maintain adequate sight distance at the driveway.
- Adequate emergency access to the project site would be provided from East Leland Road.
- The on-site vehicle stacking spaces in each area of the site would be adequate to accommodate the anticipated peak hour demand, and therefore vehicles are not anticipated to back up onto the project driveway at East Leland Road.

Thank you for giving W-Trans the opportunity to provide these services. Please call if you have any questions.

Sincerely,

Kimberly Tellez  
Assistant Engineer

Mark Spencer, PE  
Senior Principal

MES/kj-kt/PIT012.L1



Kenny Jeong, PE  
Traffic Engineer

Enclosures: Site Plan, Queuing Worksheets



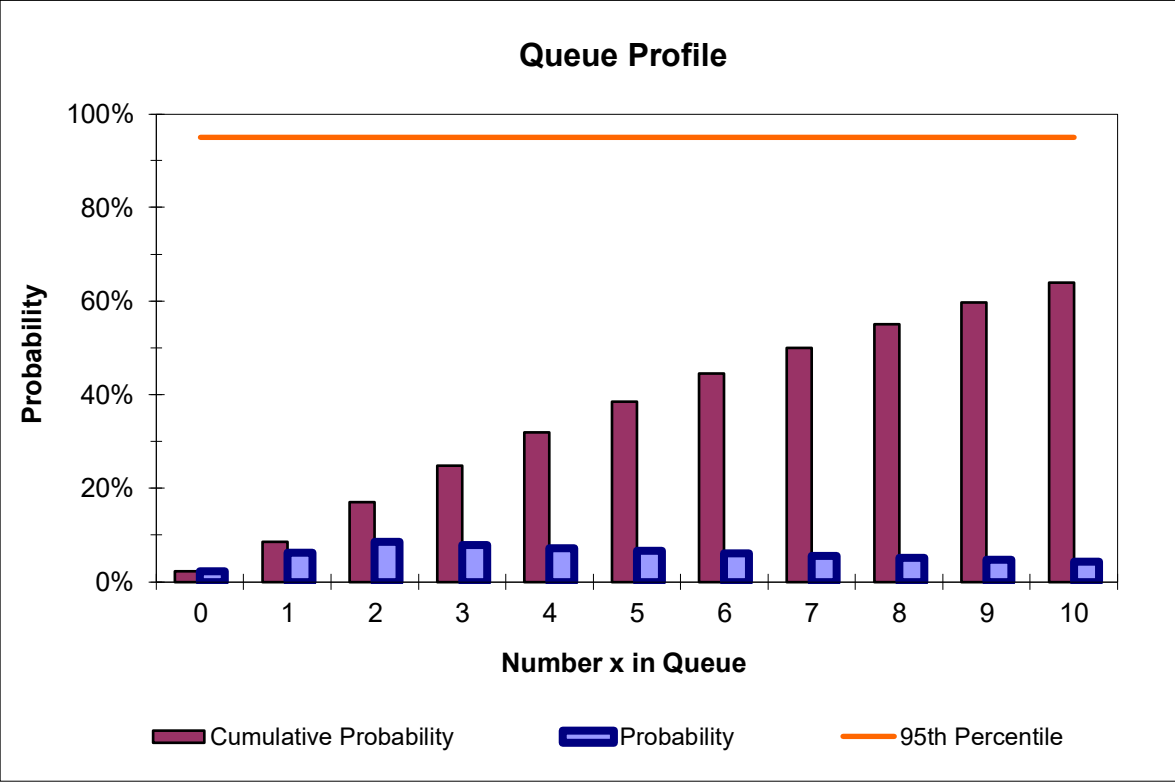
# Drive Through Queuing Evaluation Worksheet

Project: Blue Wave Express Carwash  
 Project No: PIT012

By: KT  
 Date: 6/18/2021

Arrival Rate (veh/hr): <u>55</u>	No. of Service Points: <u>3</u>
Service Rate (veh/hr): <u>20</u>	Queuing Capacity (veh): <u>24</u>

Probability the System is Empty	2%
Probability the System is Full	1%
Probability That Customer Waits	83%
Average Time Customer Waits	10.1 minutes
Average Time Customer Waits To Get To Service Point	7.1 minutes
Probability That a Customer Elects Not to Enter the Queue	1%
Average In System	9.2 vehicles
Average Total Length of Vehicles in System	230 feet
95th Percentile in System	10 vehicles
95th Percentile Total Length of Vehicles in System	250 feet



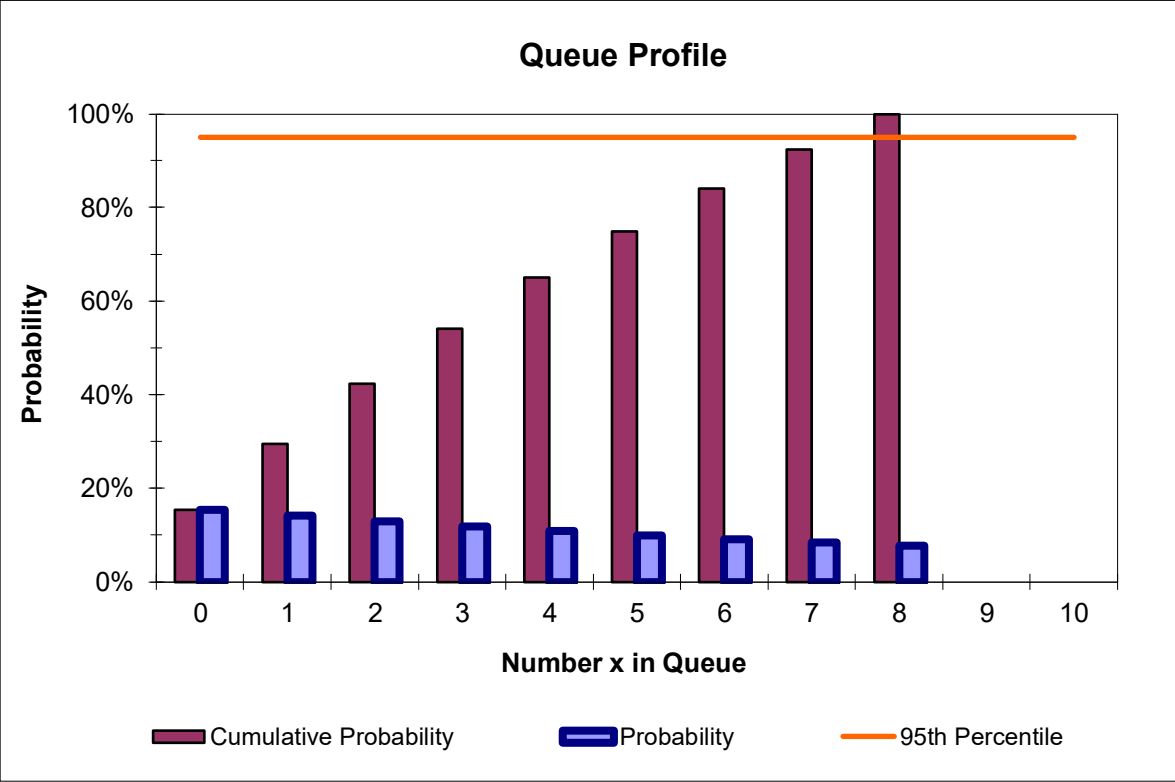
# Drive Through Queuing Evaluation Worksheet

Project: Blue Wave Express Carwash  
 Project No: PIT012

By: KT  
 Date: 6/18/2021

Arrival Rate (veh/hr): <u>55</u>	No. of Service Points: <u>1</u>
Service Rate (veh/hr): <u>60</u>	Queuing Capacity (veh): <u>7</u>

Probability the System is Empty	15%
Probability the System is Full	8%
Probability That Customer Waits	85%
Average Time Customer Waits	4.0 minutes
Average Time Customer Waits To Get To Service Point	3.0 minutes
Probability That a Customer Elects Not to Enter the Queue	8%
Average In System	3.4 vehicles
Average Total Length of Vehicles in System	86 feet
95th Percentile in System	7 vehicles
95th Percentile Total Length of Vehicles in System	175 feet



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# **EXHIBIT 2**

## **NOTICE OF MOTION AND MOTION FOR PRELIMINARY INJUNCTION**

1 Sam Ferguson (270957)  
sam@fergusonlawpc.com  
2 Katharine Kates (155534)  
katharine@fergusonlawpc.com  
3 FERGUSON LAW PC  
1816 5<sup>TH</sup> Street  
4 Berkeley, CA 94710  
Tel.: (510) 548-9005

5 William Berland (43879)  
bill@fergusonberland.com  
6 FERGUSON & BERLAND  
7 1816 5<sup>TH</sup> Street  
Berkeley, CA 94710  
8 Tel.: (510) 548-9005

9 Noah Berland (227018)  
noah@ndblaw.com  
10 1816 5<sup>th</sup> Street  
Berkeley, CA 94710  
11 Tel.: (510) 548-9005

12 Attorneys for Plaintiffs  
E. Leland Road Associates, LLC and Total Renal Care, Inc.

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 COUNTY OF CONTRA COSTA

15 E. LELAND ROAD ASSOCIATES,  
16 LLC, a California Limited-Liability  
Company, and TOTAL RENAL CARE,  
17 INC.,

18 Plaintiffs,

19 v.

20 BW E LELAND PITTSBURG LLC

21 Defendant.

Case No. C25-01748

**NOTICE OF MOTION, MOTION AND  
MEMORANDUM OF POINTS AND  
AUTHORITIES FOR PRELIMINARY  
INJUCTION**

Judge: Danielle K. Douglas  
Dept: 18  
Hearing: ~~August 29, 2025~~ 10/31/25  
Time: 9:00 a.m.

Action Filed: June 20, 2025

1 TO ALL PARTIES IN THIS ACTION AND THEIR ATTORNEYS OF RECORD:

2 YOU ARE HEREBY NOTIFIED THAT on August 29, 2025 at 9:00 a.m., or as soon  
3 thereafter as this matter may be heard, Plaintiffs E. Leland Road Associates, LLC and Total  
4 Rental Care, Inc. will appear in Department 18 in the Wakefield Taylor Courthouse located at 725  
5 Court Street, Martinez, California 94553, to move, and hereby do move, for a preliminary  
6 injunction against Defendant BW E Leland Pittsburg LLC (“Blue Wave”) and its agents, servants,  
7 employees, and representatives, and all persons acting in concert or participating with them,  
8 during the pendency of this action from engaging in, committing, or performing, directly or  
9 indirectly, any and all of the following acts:

10 Undertaking the construction and operation of a carwash on the parcel located at 1160 E.  
11 Leland Road in Pittsburg, CA, and any activity related to the construction of a carwash on  
12 that parcel, including but not limited to any pre-construction preparations.

13 Plaintiff E. Leland Road Associates, LLC is the owner of a parcel at 1150 E. Leland Road.  
14 Plaintiff Total Renal Care, Inc. is the tenant at 1150 E. Leland Road and operates the Delta View  
15 Dialysis Center (a dialysis clinic) at the site. This motion is made on the grounds that if allowed  
16 to continue, the conduct of Defendant Blue Wave in constructing and operating a carwash at 1160  
17 E. Leland Road will cause great and irreparable injury to Plaintiffs, and specifically to the Delta  
18 View Dialysis Center operated by DaVita at 1150 E. Leland Road. The adjoining parcels at 1160  
19 and 1150 E. Leland Road share an easement for access, ingress, and egress. The easement also  
20 prevents use that will unreasonably interfere with, obstruct or delay the operation of an existing  
21 business and contains certain use restrictions. By creating hazardous traffic patterns and  
22 significantly compromising the ability of patients to access the Delta View Dialysis Center for  
23 life-saving dialysis treatment, the construction and operation of the proposed carwash will  
24

1 overburden the existing shared easement and will conflict with the purpose of the easement to  
2 allow reasonable access and prevent interference with the operation of the dialysis center. The  
3 construction of a carwash at 1160 E. Leland Road is also contrary to the intent of the easement,  
4 which prohibits vehicle-related businesses from operating at 1160 E. Leland Road.

5 Plaintiffs have no adequate remedy at law.

6 This motion is based on the verified complaint on file in this case; this notice of motion,  
7 motion and memorandum of points and authorities; the declarations Yochai Kidron, Clint  
8 Johnson, and Grant Johnson, including the documents attached to those declarations, all filed on  
9 June 30, 2025 in connection with Plaintiffs' application for a Temporary Restraining Order; and  
10 the records and files in this action.

11 Dated: July 7, 2025

FERGUSON LAW PC  
FERGUSON & BERLAND  
NOAH BERLAND

13 By: /s/ Sam Ferguson  
14 Sam Ferguson  
Attorneys for Plaintiffs

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**TABLE OF CONTENTS**

**I. INTRODUCTION.....6**

**II. STATEMENT OF FACTS.....7**

**a. The Easement and use restrictions.....7**

**b. Notice of intent to begin construction of the carwash.....10**

**c. Impacts of the proposed use of Parcel A as a Blue Wave Express carwash...10**

**III. STANDARDS ON THIS MOTION .....14**

**IV. ARGUMENT .....15**

**a. Blue Wave’s plan will result in an ongoing interference with Plaintiffs’  
property rights, establishing irreparable injury.....15**

**b. Blue Wave’s proposed use will create an undue burden and is contrary to the  
Easement’s terms – thus, Plaintiffs will succeed on the merits .....16**

**c. The interim harm weighs in favor of granting the temporary restraining  
order and preliminary injunction.....20**

**V. CONCLUSION.....21**

**TABLE OF AUTHORITIES**

**Cases**

*14859 Moorpark Homeowner's Ass'n v. VRT Corp.*,  
63 Cal. App. 4th 1396 (1998) ..... 21

*Abrams v. St. John's Hosp. & Health Ctr.*,  
25 Cal. App. 4th 628 (1994) ..... 20

*Aspen Grove Condo. Ass'n v. CNL Income Northstar LLC*,  
231 Cal.App.4th 53 (2014) ..... 16

*Butt v. State of California*,  
4 Cal.4th 668 (1992) ..... 16

*Costa Mesa City Employees' Ass'n v. City of Costa Mesa*,  
209 Cal.App.4th 298 (2012) ..... 15

*County of Sacramento v. Pacific Gas & Elec. Co.*,  
193 Cal.App.3d 300 (1987)..... 18

*Dodge, Warren & Peters Ins. Services, Inc. v. Riley*,  
105 Cal.App.4th 1414 (2003) ..... 16

*Dolnikov v. Ekizian*,  
222 Cal.App.4th 419 (2013) ..... 17

*Felsenthal v. Warring*,  
40 Cal.App. 119 (1919)..... 16

*Hunt v. Superior Court*,  
21 Cal.4th 984 (1999) ..... 16

*Intel Corp. v. Hamidi*,  
30 Cal.4th 1342 (2003) ..... 15

*Keeler v. Haky*,  
160 Cal.App.2d 471 (1958)..... 18

*Scruby v. Vintage Grapevine, Inc.*,  
37 Cal.App.4th 697 (1995) ..... 17

*Van Klompenburg v. Berghold*,  
126 Cal.App.4th 345, 349 (2005) ..... 18

**Statutes**

Civ. Code, § 806 ..... 15

Code Civ. Pro. § 526..... 12

Pittsburg Municipal Code Title 18.52.010..... 17

1 **MEMORANDUM OF POINTS AND AUTHORITES**

2 **I. INTRODUCTION**

3 The owners of adjoining parcels at 1150 and 1160 East Leland Road in Pittsburg,  
4 California, created a reciprocal easement and covenants, conditions and restrictions (CC&Rs) in a  
5 declaration recorded on April 6, 2010. (the “Easement”). At the time the neighboring owners  
6 established the Easement, Plaintiff Total Renal Care, Inc., a subsidiary of DaVita, Inc.  
7 (“DaVita”), had already leased the parcel at 1150 East Leland Road for a dialysis center. The  
8 Easement provides for access, ingress and egress for both pedestrians and vehicles over the  
9 shared driveway, parking, and common areas of the adjoining properties. It also provides that the  
10 Easements must be used “in such a manner so as not to unreasonably interfere with, obstruct or  
11 delay” the operation of the businesses on either parcel. And it further contains certain restrictions  
12 on the use of the parcels, including prohibitions on use of the parcels for adult entertainment, for a  
13 pool hall, cocktail lounge, or roller rink, and notably also for activities related to automobiles and  
14 other vehicles — thus creating an environment appropriate for a medical facility and other  
15 businesses.

16 All patients that DaVita serves at its dialysis center at 1150 East Leland Road, known as  
17 the Delta View Center, have been prescribed life-saving dialysis treatment by their nephrologist, a  
18 doctor who specializes in kidney care and treating diseases of the kidneys, and nearly all have end  
19 stage renal disease. The Delta View Center patients are seriously ill. Most patients rely on others  
20 to get to and from treatment and many are non-ambulatory, using wheelchairs and walkers and/or  
21 assistance from caregivers to enter and exit the Delta View Center. It is critical for patients to  
22 arrive on time to assure they receive their full dialysis treatment. It is also important for the Delta  
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1 View Center’s operations that patients are not delayed in arriving for their treatment, as it runs on  
2 a tight shift schedule.

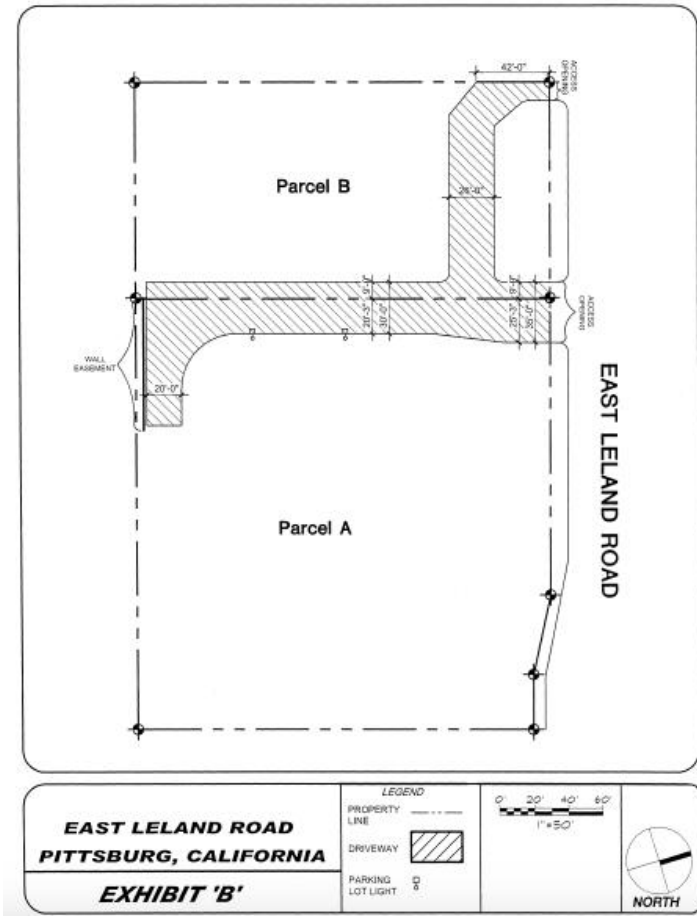
3 Defendant BW E Leland Pittsburg LLC, known and referred to herein as Blue Wave,  
4 expects to obtain a building permit for the car wash in late July and to begin construction.  
5 Although Blue Wave has obtained a zoning variance and use permit from the City of Pittsburg to  
6 build and operate the carwash on that property, the Easement remains in place. Under Blue  
7 Wave’s plans, all cars entering and exiting the carwash will travel through the shared Easement  
8 — which Blue Wave estimates will be at a rate of 55 cars per hour at peak times — a substantial  
9 influx of new traffic. And the traffic movement in Blue Wave’s site plan will create new  
10 uncontrolled intersections within the existing Easement that in turn create traffic conflicts and  
11 safety hazards between carwash customers and dialysis patients. In essence, Blue Wave intends to  
12 convert the Easement — which is intended simply as a driveway under the governing documents  
13 — and transform it into a thoroughfare that more closely resembles a street. The resulting impacts  
14 will violate the terms of the Easement by creating hazardous conditions as patients navigate  
15 through the parking and driveway areas, both in vehicles and as pedestrians, and by causing  
16 delays getting into the facility that may disrupt patients’ treatment schedules on which they  
17 depend for life-saving care. Because Plaintiffs have no adequate remedy at law should Blue Wave  
18 construct and operate its proposed carwash, Plaintiffs seek a preliminary injunction to prevent the  
19 project from moving forward.

20 **II. STATEMENT OF FACTS**

21 **a. The Easement and use restrictions**

22 On April 6, 2010, the owners of adjoining parcels at 1150 and 1160 East Leland Road  
23 created a reciprocal easement and covenants, conditions and restrictions (CC&Rs) in a declaration  
24

1 referred to here as the “Easement.” See Declaration of Yochai Kidron (Kidron Decl.), Ex. 1, and ¶  
 2 2.<sup>1</sup> Under the Easement, Parcel A, at 1160 E. Leland Road, and Parcel B, at 1150 E. Leland  
 3 Road, have rights for access, ingress, and egress to the certain common areas, including a  
 4 driveway and parking area, as described in the below diagram (*see id.*, and Ex. 1, Ex. B):



18 Plaintiff E. Leland Road Associates, LLC (“ELRA”) is the current owner of Parcel B, and leases  
 19 that property to Plaintiff DaVita. Defendant BW E Leland Pittsburg LLC, or “Blue Wave,” owns  
 20 Parcel A. *See id.* ¶¶ 3 and 4. At the time the neighboring owners established the easement,

23 <sup>1</sup> The declarations of Yochai Kidron, Grant Johnson and Clint Johnson were previously filed on  
 24 June 30, 2025 in support of Plaintiffs’ application for a Temporary Restraining Order. Plaintiffs  
 have not refiled these declarations but have delivered a new courtesy copy to the Court.

1 DaVita had already leased Parcel B for a dialysis center. *See* Easement, Ex. 1 to Kidron Decl., §  
2 5.2.

3 The Easement provides for access, ingress and egress for both pedestrians and vehicles  
4 over the common areas of the adjoining properties. *See id.* § 2.1. Notably, the common area  
5 consists not just of the driveway, but all areas that are not occupied by structures — thus the  
6 CC&Rs envision a broad paved area accessible both for pedestrians and vehicles. *See id.* § 1(d).  
7 The Easement also provides that it must be used “in such a manner so as not to unreasonably  
8 interfere with, obstruct or delay” the operation of the businesses on either parcel. *See id.* § 2.4(a)).  
9 And the owners placed certain restrictions on the use of both properties that create a hospitable  
10 environment for the dialysis center and any other businesses that would occupy these parcels. *See*  
11 *id.* § 5.1. For example, the restrictions ban adult entertainment, including adult bookstores and  
12 adult theatres, as well as cocktail lounges, bars, discos, pool halls, auction houses, flea markets,  
13 roller rinks, off track betting and amusement arcades. *Id.* The use restrictions also ban businesses  
14 engaged in vehicle-related activities, including the sale, leasing or storage of automobiles,  
15 recreational vehicles, and boats or other vehicles. *Id.* The Easement thus creates a common area,  
16 including a driveway and parking, that has limited vehicular activity and is otherwise compatible  
17 with patients entering and exiting the DaVita dialysis center as well as for patrons to access other  
18 businesses that may occupy the parcels in the future.

19 In addition to the restrictions spelled out in the Easement, the Municipal Code for the City  
20 of Pittsburg also limits the use of the property. *See* Municipal Code for the City of Pittsburg,  
21 Article 18.52.005. The overall property was zoned as “Community Commercial” for purposes of  
22 the Municipal Code when the Easement was recorded in 2010. Prohibited uses for property zoned  
23 as Community Commercial include such uses as manufacturing, warehousing, storage, and for  
24

1 food and drug processing. Prohibited uses also include vehicle-related uses. Significantly, the  
2 Municipal Code prohibits use of the property as a carwash—that is, for “Automobile washing.”  
3 Because the Municipal Code prohibited use of the site as a carwash at the time the Easement was  
4 created for property zoned Community Commercial, it can be presumed that the owners were  
5 aware of the ban. There was no need to include it in the restricted uses, just as they did not  
6 include a ban on manufacturing, warehousing, or food and drug processing.

7 On February 21, 2023, Blue Wave obtained a zoning overlay that allowed use of Parcel A  
8 as a car wash. After a noticed public hearing, the City Council of the City of Pittsburg adopted an  
9 Ordinance re-zoning Parcel B as Community Commercial with a Limited Overlay District to  
10 conditionally permit Automobile Washing on the property. Blue Wave also obtained a Use Permit  
11 from the City Counsel to allow use of the property as a car wash.

12 **b. Notice of intent to begin construction of the carwash**

13 But neither the zoning overlay nor the use permit changes the terms of the Easement  
14 entered between the parties, the definition and purpose of the reciprocal easement, and the  
15 CC&Rs it contains. Now, Blue Wave is about to embark on the construction of the carwash. It  
16 informed Mr. Yochai Kidron, a principal of Plaintiff E. Leland Road Associates, on March 13,  
17 2025, that it intended to commence construction of the carwash imminently and demanded that E.  
18 Leland Road Associates remove an existing gate and fence within 30 days. *See* Kidron Decl. ¶ 10.  
19 In this litigation, it has represented that it expects to have a building permit in late July. June 30,  
20 2025 Declaration of Heather Rimmer ¶ 2.

21 **c. Impacts of the proposed use of Parcel A as a Blue Wave Express carwash**

22 The use of Parcel A as a 3600 square foot Blue Wave Express carwash will unduly burden  
23 the reciprocal Easement and interfere with, obstruct, and delay the operations of the Delta View  
24

1 Center. In essence, Blue Wave intends to convert the Easement — which is intended simply as a  
2 driveway under the governing documents — into a thoroughfare that more closely resembles a  
3 street. In a traffic study submitted to the City of Pittsburg, Blue Wave estimates a substantial  
4 influx of new vehicles, at the rate of 55 per hour during peak times. *See* Declaration of Grant  
5 Johnson (G. Johnson Decl.), ¶ 4 and Ex. 2, p. 2. Blue Wave’s site plan will also introduce three  
6 intersections to the Easement to facilitate its carwash operations that do not presently exist. *See*  
7 *id.* and Ex. 2, site plan at p. 5. The substantial influx of vehicles combined with the new  
8 configuration will create hazardous traffic patterns and significantly compromise the ability of  
9 Delta View Center patients to access life-saving dialysis treatment. *See id.* ¶¶ 4, 12, 13, 21.

10 A diagram of the Delta View Center and the proposed Blue Wave carwash configuration  
11 is shown in Figure 1 below, which is based on the diagram in the traffic study Blue Wave  
12 submitted with its application for a zoning overlay and is attached as Exhibit 2 to Grant Johnson’s  
13 Declaration. The shared driveway easement is highlighted in yellow on this figure, and the new  
14 intersections formed by Blue Wave’s plan are given a number for identification purposes. The  
15 first intersection for the frontage connector is #1, the second intersection for the vacuum area is  
16 #2, and the third intersection for entrance to the payment area is #3. *See id.* ¶ 3.

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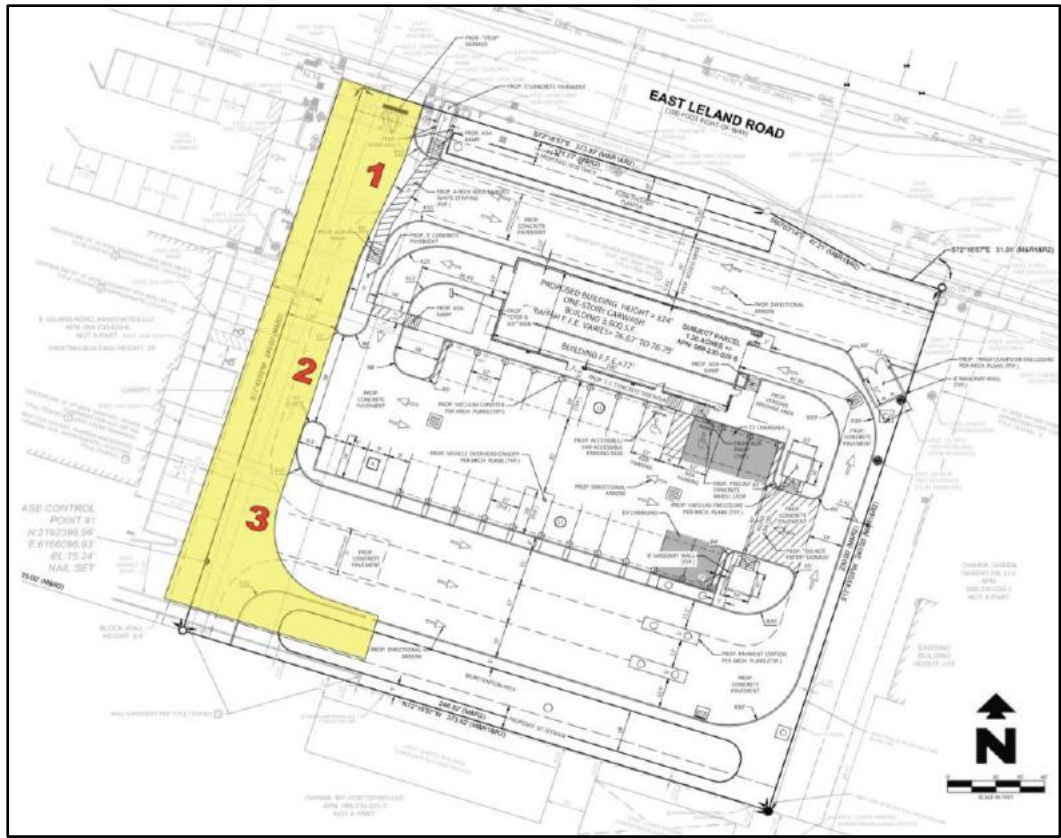


Figure 1. New Intersections Formed with Blue Wave Access at Nos. 1, 2, and 3

Blue Wave estimates that 55 vehicles will use its carwash per hour during peak times. *See id.* at Ex. 2, p. 2. Thus, there will be 110 total trip ends per hour. *Id.* There can be no doubt that this alone is a substantial influx of additional vehicles. *See* G. Johnson Decl., ¶¶ 4, 18, 21. Even so, it likely underestimates the total number of additional vehicles per hour during peak times — estimated by Plaintiffs’ expert to be 75. *Id.* at ¶¶ 18-20. In addition to the influx of vehicles, the introduction of the new uncontrolled intersections will create hazardous traffic conflicts. These include turning movement conflicts and parking maneuver conflicts, with poor visibility due to blind spots. *Id.* at ¶¶ 11, 12 (b), 16. Further, the two-way traffic dynamic caused by the single entrance and exit for all Blue Wave customers will cause conflicts with the users of the Delta View Center’s parking spaces, who must make wide-angle turns into the traffic flow when

1 parking and must back up into this traffic flow when exiting. *Id.* at ¶¶ 11, 12 (c), 16-17. As a  
2 result, the likelihood of accidents will greatly increase. *Id.*

3         The large influx of additional vehicles and the conflicts inherent in the proposed traffic  
4 plan will create hazardous conditions for the patients entering the Delta View Center from the  
5 parking lot and will almost certainly create delays in their treatment schedule. From Monday  
6 through Saturday, some 103 patients obtain life-sustaining dialysis treatment at the Delta View  
7 Center, nearly all of whom have end stage renal disease. Each patient receives three dialysis  
8 sessions per week, for four hours each session as prescribed by their treating nephrologist. *See*  
9 Declaration of Clinton Johnson (C. Johnson Decl.) ¶ 2. When at the Delta View Center, the  
10 patients receive support from social workers, dietitians, and patient care technicians. Physicians  
11 and nurse practitioners also attend to patients while they are at the center. When patients arrive, a  
12 medical professional conducts a brief medical check-in. These patients are seriously ill — and  
13 many have comorbidities, including cardiovascular disease, diabetes, and other ailments. *Id.* ¶ 3.  
14 Approximately 80% of the patients rely on others to provide transportation to the Delta View  
15 Center. The overwhelming majority of the patients use wheelchairs or require the use of walkers  
16 and/or assistance from caregivers to enter and exit the center from the parking lot. *Id.* These third  
17 parties generally park in the Delta View Center’s parking lot at the time of drop-off and pick-up,  
18 and enter or exit the center with the patient, which takes around fifteen to thirty minutes. The  
19 large influx of vehicles from the carwash will create safety hazards for these patients. *See id.* at ¶  
20 18, G. Johnson Decl. at ¶¶ 12(a), 13, 21.

21         Further, the addition of cars entering the carwash will likely create delays in the rigorous  
22 shift schedule that governs the operations at the Delta View Center. The Delta View Center has  
23 20 dialysis chairs. To provide dialysis to the 100+ patients it serves, it conducts three shifts per  
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1 day, six days per week. The patients receive dialysis at the same time each day either on Monday-  
2 Wednesday-Friday or Tuesday-Thursday-Saturday, with the patient arriving 15 minutes before  
3 the dialysis begins for a medical check-in. *See* C. Johnson Decl. at ¶¶ 4-5. The shifts have slightly  
4 staggered starting times, with the first starting early in the morning, at 4:30 or 4:45 a.m., the  
5 second shift starting at 8:15 a.m., and the third at approximately 12:00 -12:30 p.m. Of course,  
6 patients are also leaving at the end of their shift. This shift schedule — with the patients dropped  
7 off and picked up and with caregivers assisting patients with wheelchairs and walkers — creates  
8 busy changeover windows between shifts and at the end of the day. In addition, Delta View  
9 Center employees are also coming and going during these times, and there are visitors and regular  
10 deliveries to the Delta View Center. As a result, the parking area during the changeover windows  
11 is near capacity. Moreover, emergency vehicles need to access the center, as dialysis centers and  
12 the vulnerable patient populations they serve are more likely than other businesses to require  
13 emergency services. In 2024, 18 emergency vehicles came to the Delta View Center for various  
14 reasons. *Id.* at ¶¶ 11-17.

15           Because the parking area is already near capacity during the changeover windows, the  
16 influx of additional vehicles from the proposed carwash is likely to have a detrimental effect on  
17 patient care. Congestion in the parking area that causes delays in patients being able to park at  
18 and enter the center may result in patients not receiving the full length of dialysis treatment  
19 prescribed by their doctor, potentially causing serious negative health impacts. Missed dialysis  
20 treatments can be life threatening. Safe and efficient movement through the parking area is  
21 essential to allow patients adequate time to check-in, receive pre-dialysis care, and begin  
22 treatment at their designated chair time. Delays caused by difficulties in parking or in patients’  
23 ability to navigate the parking area to enter the center would cause disruptions to the shift  
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1 schedule, could create a cascading effect of further delays due to the limited number of dialysis  
2 chairs, negatively impact the operation of the center, and hinder DaVita's ability to provide care  
3 to its patients. *Id.* at ¶¶ 18-19. Further, Blue Wave's proposed design will decrease the ability of  
4 emergency vehicles to readily access the site and pose difficulties in turning around during  
5 ingress and egress. *See* G. Johnson Decl. at ¶ 12 (d).

6 Under these circumstances, Blue Wave's proposed carwash at 1160 E. Leland Road will  
7 have a negative impact on the Delta View Center by unreasonably burdening the Easement shared  
8 by both parcels, including by turning the parking access road into a street-like configuration and  
9 compromising the ability of the Delta View Center's patients to safely and efficiently access the  
10 Delta View Center. The impacts of Blue Wave's proposed use include: 1) creating hazardous and  
11 unsafe conditions as patients navigate through the parking and driveway areas, both in vehicles  
12 and as pedestrians, and 2) causing delays getting into the facility that may disrupt patients'  
13 dialysis treatment schedules on which they depend for life-saving care and negatively impact the  
14 operations of the Delta View Center. *See* G. Johnson Decl. at ¶ 12.

### 15 III. STANDARDS ON THIS MOTION

16 Plaintiffs bring this motion for a preliminary injunction to preserve the status quo and  
17 prevent interim harm pending trial on the merits. Code Civ. Pro. § 526(a); *Costa Mesa City*  
18 *Employees' Ass'n v. City of Costa Mesa*, 209 Cal.App.4th 298, 305 (2012). An injunction is  
19 available where a plaintiff shows the likelihood of irreparable injury. *See Intel Corp. v. Hamidi*,  
20 30 Cal.4th 1342, 1352 (2003). An injunction is also available where it appears that a party to the  
21 action "is doing, threatens, or is about to do... some act in violation of the rights of another party  
22 to the action." Code of Civ. Pro. § 526(a)(3). The court weighs two factors in deciding whether to  
23 issue a preliminary injunction: (1) the likelihood that the moving party will ultimately prevail on  
24

1 the merits and (2) the relative interim harm to the parties from issuance of the injunction. *Ryland*  
2 *Mews Homeowners Ass'n v. Munoz*, 234 Cal.App.4th 705, 711 (2015), citing *Hunt v. Superior*  
3 *Court*, 21 Cal.4th 984, 999 (1999). “[T]he greater the . . . showing on one, the less must be  
4 shown on the other to support an injunction.” *Dodge, Warren & Peters Ins. Services, Inc. v.*  
5 *Riley*, 105 Cal.App.4th 1414, 1420 (2003) quoting *Butt v. State of California*, 4 Cal.4th 668, 678  
6 (1992).

#### 7 **IV. ARGUMENT**

##### 8 **a. Blue Wave’s plan will result in an ongoing interference with Plaintiffs’** 9 **property rights, establishing irreparable injury**

10 Injunctive relief is appropriate where a defendant’s use of real property will interfere with  
11 a plaintiff’s property rights on a continuing basis — for example, through an ongoing  
12 encroachment or nuisance. *See Aspen Grove Condo. Ass'n v. CNL Income Northstar LLC*, 231  
13 Cal.App.4th 53, 64 (2014). An ongoing interference with property rights establishes irreparable  
14 injury that cannot be compensated with monetary damages; indeed, courts will not allow “an  
15 invasion of the property rights of one private party to serve the convenience or necessities of  
16 another private party.” *Id.* quoting *Felsenthal v. Warring*, 40 Cal.App. 119, 131 (1919). That is  
17 the case here. Defendants’ planned use of the joint easement as set forth in its site plan will  
18 significantly interfere with the Delta View Center’s patients’ safe use of the easement to enter,  
19 exit, and access the dialysis clinic on a continuing basis, as set forth in detail above. It will also  
20 likely cause delays that may prevent patients from receiving life-saving treatment they need and  
21 encumber the Delta View Center’s ability to run its clinic on scheduled shifts — thus causing  
22 irreparable harm that cannot be compensated with monetary damages. *See C. Johnson Decl.* at ¶¶  
23 18-19; *See G. Johnson Decl.* at ¶¶ 4, 12, 21.

1 The terms of the easement underscore the point: the parties agreed that “in the event of a  
2 breach or a threatened breach by any Owner or its Permittees of any of the terms, covenants,  
3 restrictions or conditions hereof, the other Owner(s) shall be entitled forthwith to full and  
4 adequate relief by injunction...” Kidron Decl., Ex 1 at § 9.1 (“All Legal and Equitable Remedies  
5 Available”).

6 **b. Blue Wave’s proposed use will create an undue burden and is contrary to the**  
7 **Easement’s terms – thus, Plaintiffs will succeed on the merits**

8 Blue Wave’s proposed site plan will overburden the Easement and is contrary to the terms  
9 of the Easement itself; therefore, Plaintiffs are likely to prevail in obtaining declaratory relief and  
a permanent injunction.

10 The rights and duties of the parties who hold an easement are correlative: “Neither party  
11 can conduct activities or place obstructions on the property that unreasonably interfere with the  
12 other party's use of the property.” *Dolnikov v. Ekizian*, 222 Cal.App.4th 419, 428-29 (2013),  
13 quoting 6 Miller & Starr, Cal. Real Estate (3d ed. 2011) § 15:63, p. 15-215 (rel. 8/2006). The  
14 needs of the parties must be balanced: “Actions that make it more difficult to use an easement . . .  
15 or that increase the risks attendant on exercise of rights created by the easement are prohibited.”  
16 *Id.* at 429 (citation omitted). Under these principles, where one party created a safety hazard on an  
17 ingress/egress easement caused by its decision to pave a new, second entrance to the easement,  
18 the easement had been overburdened. See *Scruby v. Vintage Grapevine, Inc.*, 37 Cal.App.4th 697,  
19 706-707 (1995). Because the safety hazard overburdened the easement, the court awarded  
injunctive and declaratory relief. *Id.*

20 As set forth above, in this case, the establishment of a carwash on Parcel A in accordance  
21 with Blue Wave’s site plan will create a safety hazard for the patients who obtain dialysis  
22 treatment at the Delta View Center on Parcel B. Due to the increased traffic and congestion, non-  
23 ambulatory and semi-ambulatory patients who must navigate through the parking lot at drop off  
and pick up will likely have difficulty avoiding the vehicles coming and going from the carwash.

1 In addition, delays caused by impediments to patients’ arrival at the clinic have the potential to  
2 negatively impact their treatment — which they rely upon to stay alive. For these reasons, the  
3 contemporaneously filed action for declaratory relief and permanent injunction is likely to  
4 succeed because the proposed use of Parcel A for the Blue Wave carwash creates safety hazards  
5 and risks that overburden the easement by unreasonably interfering with the Delta View Center’s  
6 use of Parcel B. *See* C. Johnson Decl. at ¶¶ 18-19; *See* G. Johnson Decl. at ¶¶ 4, 12, 21.

7 Equally, Plaintiffs are likely to succeed in their action for declaratory and injunctive relief  
8 because the use of the Easement for Blue Wave’s carwash operations is contrary to and violative  
9 of the terms of the Easement. *See Keeler v. Haky*, 160 Cal.App.2d 471, 476 (1958) (an easement  
10 for ingress and egress did not include the right to permanently park vehicles thereon). “It is  
11 fundamental that the language of a grant of an easement determines the scope of the easement.”  
12 *Van Klompenburg v. Berghold*, 126 Cal.App.4th 345, 349 (2005), *quoting County of Sacramento*  
13 *v. Pacific Gas & Elec. Co.*, 193 Cal.App.3d 300, 313 (1987); *see also* Civ. Code, § 806 (“The  
14 extent of a servitude is determined by the terms of the grant, or the nature of the enjoyment by  
15 which it was acquired.”)

16 The Easement provides a reciprocal easement for reasonable access for motor vehicles  
17 and pedestrians to all the common areas on Parcel A and Parcel B, including roadways and  
18 walkways. The Easement provides:

19 A reciprocal easement for reasonable access, ingress and egress  
20 over all paved driveways, roadways and walkways as presently or  
21 hereafter constructed and constituting a part of the Common Area  
22 of Parcel B and the Common Area of Parcel A including, without  
23 limitation, the Driveway, so as to provide for the passage of motor  
24 vehicles and pedestrians between all portions of the Common Area  
25 of such Parcels intended for such purposes, and to and from all  
abutting streets or rights of way furnishing access to such Parcels”

26 Kidron Decl., Ex. 1 § 2.1(a).

27 The Easement contemplates broad reciprocal use, providing not just ingress and egress  
28 through the driveway but also reasonable access to Common Areas for vehicles and for  
29 pedestrians. In turn, the term Common Area is defined as areas “that are outside of exterior walls  
30

1 of buildings or of other structures . . . and which are either unimproved or are improved.” *Id.* §  
2 1(d). The Easement thus provides that all areas apart from the buildings themselves are part of the  
3 easement and provides that pedestrians have reasonable access to these areas. The Easement  
4 contemplates an arrangement like a strip mall, which allows pedestrian and vehicle traffic in a  
5 shared open parking and driveway area. In addition, the Easement contains a “reasonable use”  
6 clause, providing that the easements shall be used “in such a manner so as not to unreasonably  
7 interfere with, obstruct, or delay the conduct and operations of the business of any other Owner or  
8 its Permittees.” *Id.* § 2.4(a).

9 The proposed street-like configuration in the Blue Wave site plan impedes the safety of  
10 pedestrians accessing the Delta View Center and creates hazardous conditions for parking  
11 maneuvers by the Delta View Center’s patients, teammates, and other guests, as set forth above.  
12 This street-like configuration is incompatible with the description of the shared Easement as a  
13 “driveway” for “access,” “ingress” and “egress.” Blue Wave essentially proposes to turn the  
14 driveway into simply a part of its carwash operations and drive-through plan. Equally, it conflicts  
15 with the purpose of the Easement “to provide for the passage of motor vehicles and pedestrians  
16 between all portions of the Common Area,” including parking areas, driveways, roadways,  
17 entrances and exits. And the likely delays caused by this configuration violate the reasonable use  
18 clause as they will interfere with the patient’s treatment and the operations of the Delta View  
19 Center. *See* C. Johnson Decl. at ¶¶ 18-19; *See* G. Johnson Decl. at ¶¶ 4, 12, 13, 21.

20 Further, the Restrictions section of the Easement addresses the purposes for which the  
21 property may be used. It demonstrates that the parties specifically contemplated that a dialysis  
22 center would occupy Parcel B: “notwithstanding anything . . . to the contrary, Parcel B may be  
23 used for the operation of an outpatient renal dialysis clinic.” Kidron Decl. Ex. 1 § 5.1. It also  
24 restricts the use of Parcel A to a business that does not derive more than ten percent of its  
25 revenues from renal dialysis and references the lease entered by DaVita for this property  
(formerly named Total Renal Care). *Id.* § 5.2. And it prohibits the use of either parcel for

1 vehicular-related businesses, barring “the sale, leasing or storage of automobiles, recreational  
2 vehicles, boats or other vehicles.” *Id.* § 5.1 This term reflects that the parties sought to bar  
3 vehicular-related businesses and undertakings on either parcel. Significantly, at the time the  
4 parties entered the Easement the property was zoned as “Community Commercial” under the  
5 Pittsburg Municipal Code, Section 18, Zoning. *See* Kidron Decl. Ex. 2, p. 8. That Code does not  
6 permit “Automobile Washing,” in areas zoned “Community Commercial.” *See* Pittsburg  
7 Municipal Code Title 18.52.010. Only when Blue Wave applied for a zoning overlay did it obtain  
8 the ability to use the property for purposes of a carwash. At the time the Easement was recorded,  
9 use of either parcel as a carwash was prohibited under the zoning code and thus was not  
10 addressed in the Easement. Because at the time the Easement was entered, the zoning code barred  
11 use of Parcel A as a car wash, and because the Easement does bar other uses related to vehicles  
12 and contemplates a renal dialysis clinic with a large common parking area accessible to  
13 pedestrians who could access the businesses of both parcels, use of Parcel A as a carwash must be  
14 considered as contrary to the terms of the Easement. For this additional reason, Plaintiffs are  
15 likely to succeed on the merits.

14 **c. The interim harm weighs in favor of granting the preliminary injunction**

15 In weighing the relative harms, a court should consider “inadequacy of other remedies, the  
16 degree of irreparable harm, and the necessity of preserving the status quo.” *Abrams v. St. John's*  
17 *Hosp. & Health Ctr.*, 25 Cal. App. 4th 628, 636 (1994). As set forth above, the ongoing  
18 interference with property rights that will result if Blue Wave constructs its carwash in  
19 accordance with its site plan establishes irreparable injury that cannot be compensated with  
20 monetary damages. *See Aspen Grove Condo. Ass'n*, 231 Cal.App.4th at 64. The Parties  
21 themselves acknowledged that any use of the Easement contrary to its terms would cause  
22 irreparable harm. Section 9.6 of the Easement provides, “In the event of a violation or threat  
23 thereof of any of the provisions of paragraphs 2 and/or 5 of this Declaration, each Owner agrees  
24 that such violation or threat of violation shall cause the non-defaulting party Owners and/or its  
25

1 Permitees to suffer irreparable harm and such non-defaulting Owner and its Permitees shall have  
2 no adequate remedy at law.” Kidron Decl. Ex. 1 § 9.6.

3 Further, granting an injunction will preserve the status quo which “has been defined to  
4 mean the last actual peaceable, uncontested status which preceded the pending controversy.”  
5 *14859 Moorpark Homeowner's Ass'n v. VRT Corp.*, 63 Cal. App. 4th 1396, 1408 (1998)  
6 (punctuation and citation omitted). Currently, there is no interference with use of the Easement;  
7 the Delta View Center’s patients have safe and reasonable access, ingress, and egress to the  
8 dialysis center. On the other hand, Blue Wave appears to be shovel-ready to start construction on  
9 the carwash as soon as its final building permit is issued, which Blue Wave expects at the end of  
10 July. June 30, 2025 Declaration of Hearther Rimmer ¶ 2. The fence between the parcels has been  
11 taken down. Once construction begins, it will be more difficult for Plaintiffs to stop the project  
12 from moving forward — despite the substantial interference with their own property rights and  
13 use of the Easement. As yet, it is not clear whether the construction of the carwash itself will  
14 create an undue burden on the Easement as a temporary matter, before the undue burden becomes  
15 continuing and ongoing once the carwash is up and running. To preserve the status quo, the  
16 preliminary injunction should issue.

15 **V. CONCLUSION**

16 For the reasons set forth above, this Court should grant the Preliminary Injunction.

17 Dated: July 7, 2025

18 FERGUSON LAW PC  
19 FERGUSON & BERLAND  
20 NOAH BERLAND

21 By: /s/ Sam Ferguson

22 Sam Ferguson  
23 Attorneys for Plaintiffs

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**PROOF OF SERVICE**

*E. Leland Road Associates, LLC, et al. v. BW E Leland Pittsburg LLC*  
Superior Court of the State of California, Contra Costa County  
Case no. C25-01748

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made, in the County of Alameda, State of California. I am over the age of 18, and not a party to this action. My business address is 1816 5<sup>th</sup> Street, Berkeley, CA 94710. On the date set forth below, I served the following document(s):

**NOTICE OF MOTION, MOTION AND MEMORANDUM OF POINTS AND AUTHORITIES FOR PRELIMINARY INJUNCTION**

**DECLARATION OF YOCHAI KIDRON IN SUPPORT OF APPLICATION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

**DECLARATION OF CLINTON JOHNSON IN SUPPORT OF APPLICATION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

**DECLARATION OF GRANT JOHNSON IN SUPPORT OF PLAINTIFFS' APPLICATION FOR TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION AND PERMANENT INJUNCTION**

**ORDER FOR ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION AND TEMPORARY RESTRAINING ORDER**

**[PROPOSED] ORDER FOR PRELIMINARY INJUNCTION**

On all interested parties in this action as follows:

**VIA [EMAIL]:**  
Abram Petersen  
*apetersen@lubinolson.com*  
Michael Muzzy  
*mmuzzy@lubinolson.com*  
Lubin Olson & Niewiadomski LLP  
The Transamerica Pyramid  
600 Montgomery Street, 14<sup>th</sup> Floor  
San Francisco, CA 94111  
(415) 981-0550

*Attorneys for Defendant BW E Leland Pittsburg LLC*

**[X] (BY E-MAIL OR ELECTRONIC TRANSMISSION)** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the document(s) to

1 be sent to the person(s) at the e-mail address(es) listed above. I did not receive, within a  
2 reasonable time after the transmission, any electronic message or other indication that the  
transmission was unsuccessful.

3  (BY MAIL) I am readily familiar with my firm's practice for collection and processing of  
4 correspondence for mailing with the United States Postal Service, to-wit, that correspondence will  
be deposited with the United States Postal Service this same day in the ordinary course of  
5 business. I sealed said envelope(s) and placed it for collection and mailing on the date indicated  
below, following ordinary business practices.

6  (BY FACSIMILE) I caused the aforementioned document(s) to be transmitted by Facsimile  
7 machine to the facsimile number(s) indicated for the person(s) identified above.

8  (BY FEDERAL EXPRESS) I caused the aforementioned envelope(s) to be delivered to Federal  
Express for overnight courier service to the address(es) listed above for the person(s) identified  
9 above.

10  (PERSONAL SERVICE) I caused the aforementioned envelope(s) to be delivered by hand to  
the address(es) listed above for the person(s) identified above.

11 I declare that I am employed in the office of a member of the bar of this Court at whose  
12 direction the service was made. Executed on July 7, 2025 in Oakland, California.

13 /s/ Sam Ferguson  
14 Sam Ferguson

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# **EXHIBIT 3**

## **DECLARATION OF CLINTON JOHNSON IN SUPPORT OF APPLICATION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

1 Sam Ferguson (270957)  
*sam@fergusonlawpc.com*  
 2 Katharine Kates (155534)  
*katharine@fergusonlawpc.com*  
 3 FERGUSON LAW PC  
 1816 5<sup>TH</sup> Street  
 4 Berkeley, CA 94710  
 Tel.: (510) 548-9005



5 William Berland (43879)  
*bill@fergusonberland.com*  
 6 FERGUSON & BERLAND  
 1816 5<sup>TH</sup> Street  
 7 Berkeley, CA 94710  
 8 Tel.: (510) 548-9005

9 Noah Berland (227018)  
*noah@ndblaw.com*  
 10 1816 5<sup>th</sup> Street  
 Berkeley, CA 94710  
 11 Tel.: (510) 548-9005

12 Attorneys for Plaintiffs  
 E. Leland Road Associates, LLC and Total Renal Care, Inc.

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 14 COUNTY OF CONTRA COSTA

15 E. LELAND ROAD ASSOCIATES,  
 16 LLC, a California Limited-Liability  
 Company, and TOTAL RENAL CARE,  
 17 INC.

Case No. C25-01748

**DECLARATION OF CLINTON JOHNSON  
 IN SUPPORT OF APPLICATION FOR  
 TEMPORARY RESTRAINING ORDER  
 AND PRELIMINARY INJUNCTION**

18 Plaintiffs,

19 v.

20 BW E LELAND PITTSBURG LLC,

21 Defendant.

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1 I, Clinton Johnson, declare as follows:

2 1. I am a Regional Operations Director in Northern California for Total Renal Care,  
3 Inc. ("TRC"), a wholly owned subsidiary of DaVita Inc. (collectively "DaVita"). I am responsible  
4 for the operation of fifteen outpatient DaVita dialysis centers that serve patients with kidney  
5 disease. All patients that TRC serves have been prescribed life-saving dialysis treatment by their  
6 nephrologist, a doctor who specializes in kidney care and treating diseases of the kidneys. My  
7 responsibilities include overseeing the operations of the TRC Delta View Dialysis Center at 1150  
8 E. Leland Road, Pittsburgh, California (the "Delta View Center"). I make this declaration in  
9 support of TRCs application for a temporary restraining order and preliminary injunction. I have  
10 personal knowledge of the matters stated herein and could and would competently testify thereto  
11 if called upon to do so.

12 2. At the Delta View Center, patients with kidney disease obtain in-center  
13 hemodialysis treatment, commonly referred to simply as "dialysis." Dialysis is a treatment that  
14 filters wastes and extra fluid from the blood when the kidneys are no longer able to perform this  
15 function. The Delta View Center treats a total of approximately 105 patients on a weekly basis,  
16 nearly all of whom have end stage renal disease (ESRD). At this advanced stage of kidney  
17 disease, the kidneys have lost nearly all their ability to do their job effectively, and dialysis or a  
18 kidney transplant is needed to live. The Delta View Center's patients are wholly dependent on  
19 dialysis as a life-sustaining treatment. For a person with ESRD, without life-sustaining dialysis or  
20 a kidney transplant, toxins build up in the body and death usually comes within a few weeks. The  
21 patient's nephrologist is responsible for prescribing the dialysis sessions, which take place 3 times  
22 each week for approximately 4 hours per session.

23 3. The patients treated at the Delta View Center are seriously ill. In addition to  
24 suffering from ESRD, most patients receiving dialysis treatments have comorbidities.

25

1 Cardiovascular diseases and diabetes are common as well as other ailments related to advanced  
2 age and overall poor health. Most patients cannot get to and from the Delta View Center for  
3 treatment on their own. Approximately 50% of the patients rely on transportation services. Some  
4 patients have caretakers who provide transportation. And approximately 20 patients drive  
5 themselves. Many of the patients are non-ambulatory; they use wheelchairs or require the use of  
6 walkers and/or assistance from caregivers to enter and exit the center from the parking lot.

7 4. The Delta View Center employs approximately 30 "teammates." These include  
8 administrative personnel, social workers, dietitians, and patient care technicians and nurses who  
9 administer the dialysis on rotating shifts. Physicians and nurse practitioners also attend to patients  
10 while they are at the center. When patients arrive, a medical professional conducts a brief medical  
11 check-in, including monitoring the patient's vital signs, and then connects the patient to the  
12 dialysis machine. The patient is monitored throughout the treatment.

13 ***Treatment schedule—shift system***

14 5. The patients have a designated "chair time"—the time at which they are seated in  
15 the dialysis chair and commence their treatment. The Delta View Center has 20 chairs. The chair  
16 time is at the same time each day the patient receives treatment: either Monday-Wednesday-  
17 Friday or Tuesday-Thursday-Saturday. There are three shifts each day, with slightly staggered  
18 starting and ending times within the shift, as further set forth below. It is essential for patients to  
19 arrive at their designated chair time to ensure that they receive the full treatment prescribed by  
20 their nephrologist—and that the patient needs to stay alive. There is very little flexibility in the  
21 starting and ending times as the Delta View Center must maintain its schedule to ensure all  
22 patients receive their full treatment.

23 6. For this reason, patients must not be encumbered in their arrival at the center. As  
24 referenced, this is a vulnerable patient population and the overwhelming majority of patients need  
25

1 some assistance in physically getting to and from a vehicle when entering the Delta View Center.  
2 Typically, this assistance is provided by either a transportation service, a family member, or a  
3 hired caregiver. These third parties generally park in the Delta View Center's parking lot at the  
4 time of drop-off and pick-up, and enter or exit the center with the patient, which takes around  
5 fifteen to thirty minutes. The Delta View Center must ensure that this arrival and departure  
6 process is as navigable as possible for its patient population.

7 7. Currently, 53 patients at the Delta View Center receive dialysis on a Monday-  
8 Wednesday-Friday schedule and 50 patients receive dialysis on a Tuesday-Thursday-Saturday  
9 schedule. Patients arrive 15 minutes prior to their designated chair time for their medical check-  
10 in.

11 8. On Monday-Wednesday-Friday, the first shift with 19 patients, begins at 4:45 a.m.  
12 The last patient on the first shift leaves at 9:00 a.m. The second shift, with 20 patients, starts at  
13 8:15 a.m. The last patient on the second shift leaves at 1:45 p.m. The third shift, with 17-18  
14 patients, begins at 12:00 p.m.. The last patient on the third shift leaves at 5:30 p.m.

15 9. For the Tuesday-Thursday-Saturday group, the first shift with 18 patients begins at  
16 4:30 a.m., with the last patient leaving at 9:30 a.m. The second shift with 18 patients begins at  
17 8:15 a.m., with the last patient leaving at 2:15 p.m. The third shift, with 14 patients, begins at  
18 12:30, with the last patient completing treatment at 5:15 p.m.

19 10. In addition, on any given day there are approximately 10-15 vehicles of TRC  
20 teammates in the parking lot. The teammates also work in shifts. Certain teammates arrive for and  
21 depart from their shifts or have their lunch breaks at times that coincide with the arrival and  
22 departure of patients.

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1           **Changeover**

2           11.     The chair time schedule creates a busy "changeover" window. During the time in  
3 which one shift is leaving and the next shift arriving, the parking lot at the Delta View Center  
4 becomes heavily trafficked and nears full capacity.

5           12.     For example, on Monday, Wednesday, and Friday, the changeover time between  
6 the first and second shift is from approximately 7:30 to 9:45 a.m. and the changeover from the  
7 second to third shift is from 11:45 a.m. to 1:45 p.m. During these windows, 39 patients are either  
8 arriving or departing from the center. Patients who have transportation companies drop them off  
9 will typically pull up to the front entrance to drop off their patients. The patients that drive  
10 themselves or have a caretaker drop them off will park and the patient will walk through the lot or  
11 an individual will assist the patient, often with a wheelchair or walker, to enter or exit the center.  
12 To exit the vehicle, navigate to the center, and get situated inside, takes a patient and caregiver  
13 approximately 15 to 30 minutes. In addition, during both time windows, certain DaVita  
14 teammates, including medical technicians, nurses, and other employees are also arriving and  
15 departing.

16           13.     The Tuesday-Thursday-Saturday schedule is similar. The changeover windows are  
17 from 8:00 to 9:30 a.m. and from 12:15 to 2:15 p.m., with approximately 36 patients either  
18 entering or exiting the center, generally with assistance from another individual, and with each  
19 trip through the parking lot and into or out of the center taking 15 to 30 minutes. And again,  
20 DaVita teammates also enter and exit the parking area during this time.

21           14.     More specifically, the traffic flow during the changeover windows breaks down as  
22 follows:

- 23           • For those using the transportation service, the vehicle enters the driveway/parking  
24 lot, pulls up and drops the patient off at the entrance, helps the patient inside, and

25

1 then leaves the site. At the end of the shift, the transportation service returns, pulls  
2 up to the front entrance, helps the patient into the vehicle, and then leaves. This  
3 group makes up approximately 50% of patients.

4 • For those who arrive with caretakers, the caretaker drives in and parks in the  
5 parking lot, assists the patient into the center, and then departs from the site. At the  
6 end of the shift, the caretaker returns, parks, and then assists the patient into the  
7 vehicle. This group makes up approximately 30% of the patients.

8 • For those who drive themselves, they enter and park. At the end of the shift, these  
9 patients return to their vehicles and then exit. This group makes up approximately  
10 20% of the patients.

11 15. At the end of the day, from approximately 4:00-5:30 p.m. from Monday through  
12 Saturday, 14-18 patients exit the center, most with the assistance of a third party. During this  
13 time, DaVita teammates also exit the center and travel through the parking lot.

14 16. Further, there are visitors and regular deliveries to the Delta View Center. For  
15 example, certain shifts have regular visitors who sit with the patients during their dialysis  
16 treatments. Deliveries arrive on Monday, Tuesday, and Wednesday every week. Shredding  
17 services come every Tuesday; Stericycle comes twice a week to pick up biohazard waste. Another  
18 vendor, Cintas, comes on Monday mornings, and UPS comes daily by 3:30 p.m. to pick up lab  
19 samples, an essential component of dialysis.

20 17. Lastly, due to the vulnerable populations they serve, dialysis centers are more  
21 likely than other businesses to require emergency services. In the last year, 18 emergency  
22 vehicles came to the Delta View Center for various reasons. Emergency vehicles require free and  
23 clear access to the center through the same parking lot as patients, teammates, and other visitors.

24

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1 ***Impact of additional vehicles***

2 18. Because the parking area is already near capacity during the changeover windows,  
 3 and because the Delta View Center's patients require significant time and support to navigate  
 4 through the parking area, I believe that a substantial influx of additional vehicles will have a  
 5 significant detrimental impact on patient care. If a significant number of additional vehicles were  
 6 to travel through the parking area, as is likely with the addition of the proposed car wash next  
 7 door, it is my belief that sizeable congestion will result. The increased traffic and congestion raise  
 8 safety concerns for the seriously ill patients who must cross through the parking area when  
 9 arriving at or departing from their scheduled dialysis treatments. Congestion in the parking area  
 10 that causes delays in patients being able to park at and enter the center may result in patients not  
 11 receiving the full length of dialysis treatment prescribed by their doctor, potentially causing  
 12 serious negative health impacts. Missed dialysis treatments can be life threatening.

13 19. The Delta View Center depends on a smooth transition between shifts to provide  
 14 patients with optimal care. Safe and efficient movement through the parking area is essential to  
 15 allow patients adequate time to check-in, receive pre-dialysis care, and begin treatment at their  
 16 designated chair time. Delays caused by difficulties in parking or in patients' ability to navigate  
 17 the parking area to enter the center would cause disruptions to the shift schedule, could create a  
 18 cascading effect of further delays due to the limited number of dialysis chairs, negatively impact  
 19 the operation of the center, and hinder DaVita's ability to provide care to its patients.

20 I declare under penalty of perjury under the laws of the State of California that the  
 21 foregoing is true and correct. Executed on 5/11/25 in Pittsburg, California.

22  
 23   
 24 Clinton Johnson

25

# **EXHIBIT 4**

**DECLARATION OF GRANT JOHNSON IN SUPPORT OF  
PLAINTIFFS' APPLICATION FOR TEMPORARY  
RESTRAINING ORDER, PRELIMINARY AND  
PERMANENT INJUNCTION**

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Sam Ferguson (270957)  
*sam@fergusonlawpc.com*  
Katharine Kates (155534)  
*katharine@fergusonlawpc.com*  
FERGUSON LAW PC  
1816 5<sup>TH</sup> Street  
Berkeley, CA 94710  
Tel.: (510) 548-9005

William Berland (43879)  
*bill@fergusonberland.com*  
FERGUSON & BERLAND  
1816 5<sup>TH</sup> Street  
Berkeley, CA 94710  
Tel.: (510) 548-9005

Noah Berland (227018)  
*noah@ndblaw.com*  
1816 5<sup>th</sup> Street  
Berkeley, CA 94710  
Tel.: (510) 548-9005

Attorneys for Plaintiffs  
E. Leland Road Associates, LLC and Total Renal Care, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF CONTRA COSTA

E. LELAND ROAD ASSOCIATES,  
LLC, a California Limited-Liability  
Company, and TOTAL RENAL CARE,  
INC.,

Plaintiffs,

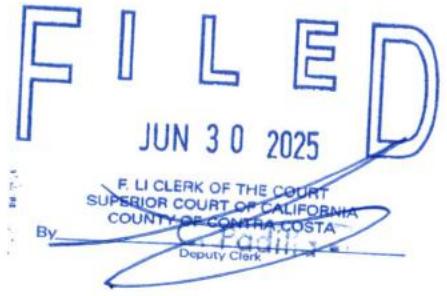
v.

BW E LELAND PITTSBURG LLC

Defendant.

Case No. C25-01748

**DECLARATION OF GRANT JOHNSON IN  
SUPPORT OF PLAINTIFFS'  
APPLICATION FOR TEMPORARY  
RESTRAINING ORDER, PRELIMINARY  
AND PERMANENT INJUNCTION**



1 I, Grant Johnson, declare and state:

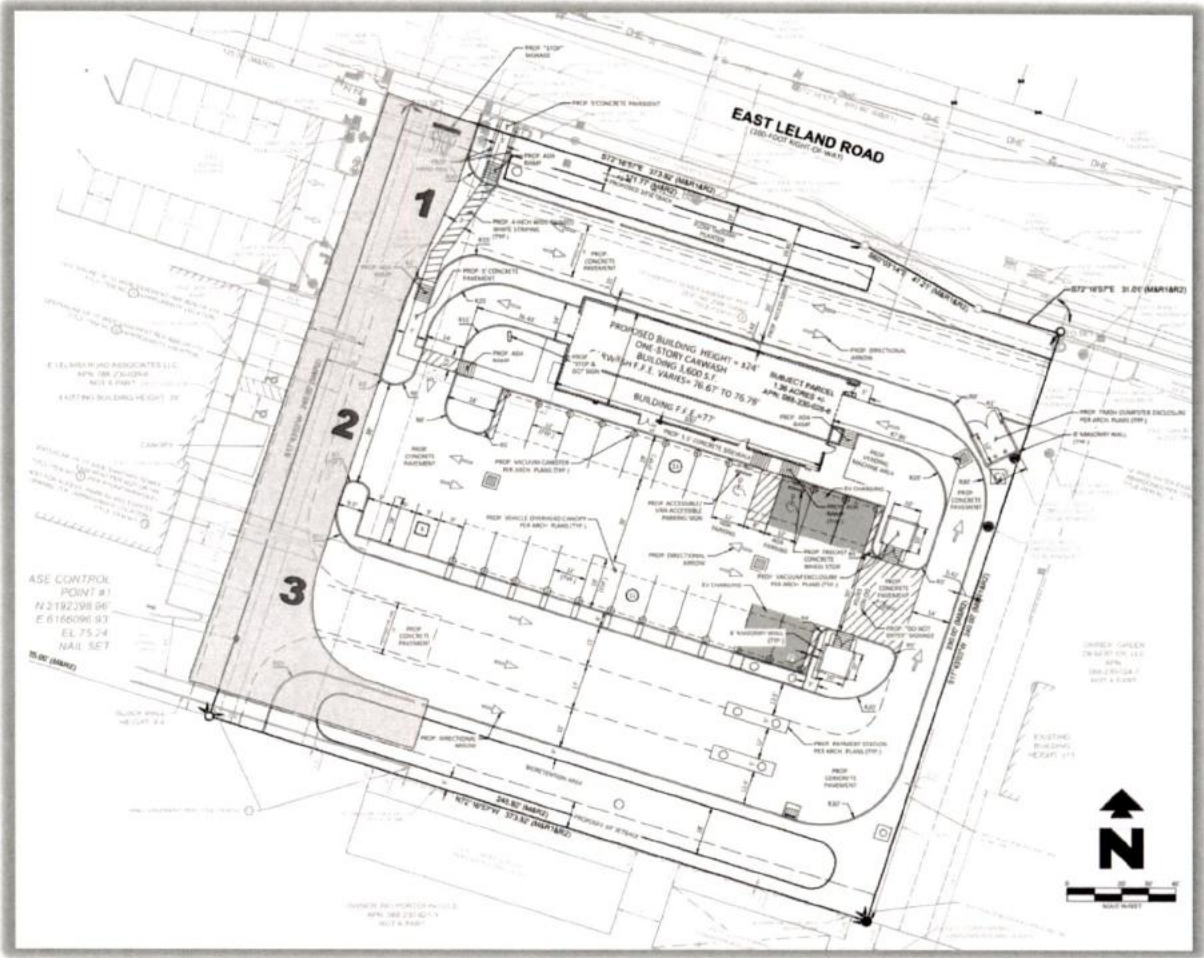
2 1. I am a registered traffic engineer, and I am the principal engineer of PRISM  
3 Engineering. A copy of my CV is attached as Exhibit 1.

4 2. I was asked by William Berland, one of the attorneys for the plaintiffs in this  
5 action, to review the traffic study submitted to the City of Pittsburg by Blue Wave Carwash  
6 (“Blue Wave”) in connection with its application for a permit to operate a carwash business in  
7 Pittsburg, and to analyze the impact of the carwash business’ car traffic on the adjoining business  
8 of the Delta View Dialysis Center (the “Delta View Center”). A copy of the Blue Wave traffic  
9 study (“Blue Wave Traffic Study”) is attached as Exhibit 2.

10 3. The Delta View Center is adjacent to an empty parcel on which Blue Wave  
11 proposes to build its carwash. At present, the two parcels share a common driveway under an  
12 Easement. A diagram of the Delta View Center and the proposed Blue Wave car wash  
13 configuration is shown in Figure 1 below, which is based on the diagram in the Blue Wave  
14 Traffic Study attached as Exhibit 2. The shared driveway easement is highlighted in yellow on  
15 this figure, and the new intersections formed are given a number for identification purposes in  
16 this declaration. The first intersection for the frontage connector is #1, the second intersection for  
17 the vacuum area is #2, and the third intersection for entrance to the payment area is #3.

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**Figure 1. New Intersections Formed with Blue Wave Access**

4. In my professional opinion, and as more thoroughly detailed below, the operation of a car wash next to the Delta View Center will unreasonably impact the parking and arrival operations of the Delta View Center as well as unreasonably burden the shared driveway. In essence, Blue Wave intends to convert the Easement—which is intended simply as a driveway under the governing documents—into a thoroughfare that more closely resembles a street. Blue Wave estimates a substantial influx of new vehicles, at the rate of 55 per hour during peak times. See Ex. 2, p. 2. Blue Wave’s site plan will also introduce three openings or intersections to the Easement to facilitate its car wash operations that do not presently exist. The substantial influx of vehicles combined with the new configuration will create hazardous traffic patterns and

1 significantly compromise the ability of the Delta View Center’s patients to access the Delta View  
2 Center for life-saving dialysis treatment.

3 **The Easement Requirements**

4 5. The Easement grants reasonable access to each Parcel Owner as well as their  
5 permittees over the “Driveway” and the “Common Area.” Exhibit 3 at ¶ 2.1(a). The Easement is  
6 designed to allow passage for vehicles and pedestrians over the Driveway and Common Area for  
7 access, ingress and egress:

8 A reciprocal easement for reasonable access, ingress and egress  
9 over all paved driveways, roadways and walkways as presently or  
10 hereafter constructed and constituting a part of the Common Area  
11 of Parcel B and the Common Area of Parcel A including, without  
12 limitation, the Driveway, so as to provide for the passage of motor  
13 vehicles and pedestrians between all portions of the Common Area  
14 of such Parcels intended for such purposes, and to and from all  
15 abutting streets or rights of way furnishing access to such Parcels.  
16 *Id.*

14 6. The Common Area is defined as those portions of the parcels that are “outside the  
15 exterior walls of buildings” and are “parking areas, landscaped areas, driveways, roadways . . .  
16 walkways . . . entrances, exits.” *Id.* at ¶ 1 (d). The Driveway is defined as that driveway shown  
17 on the Site Plan. *Id.* at ¶ 1 (f)

18 7. The Easement contains a number of conditions and restrictions, among them that:  
19 “The easements herein above granted shall be used and enjoyed by each Owner and its Permittees  
20 in such a manner so as not to unreasonably interfere with, obstruct or delay the conduct and  
21 operations of the business of any other Owner or its Permittees at any time conducted on its  
22 Parcel...”

23 8. A present, the Delta View Center utilizes the Driveway to facilitate patients  
24 entering and exiting the dialysis clinic. The parcel where Blue Wave proposes to build a car wash  
25 is currently vacant land.

26 9. My opinion below is based in part on the information contained in the Declaration  
27 of Clinton Johnson in Support of Temporary Restraining Order (“C. Johnson Decl.”) (filed  
28

1 herewith) concerning the operations of the Delta View Center, its patient population, its shift  
2 schedule, and its use of the Easement.

3 **Opinion based on Blue Wave Traffic Study**

4 10. It is my opinion that the car traffic generated by Blue Wave will have a significant  
5 negative impact on the operations of the Delta View Center. Based on the information contained  
6 in the Blue Wave Traffic Study and the C. Johnson Declaration regarding 1) the current parking  
7 needs and use of the Easement by the Delta View Center and its patients and 2) the influx of  
8 additional traffic that will occur if the proposed Blue Wave carwash is constructed, I believe Blue  
9 Wave's proposed use will exceed the reasonable use of the Easement and cause serious  
10 disruptions and safety concerns for the Delta View Center. The technical support for this opinion  
11 is set forth in the technical traffic engineering analysis that is explained hereafter.

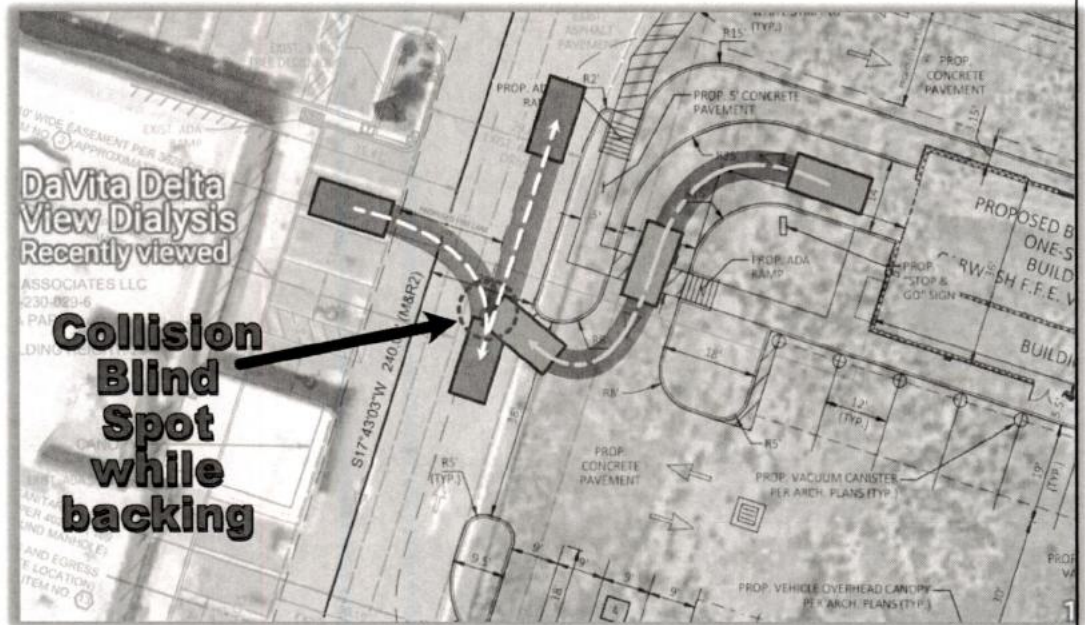
12 11. The Blue Wave Traffic Study estimates that 55 vehicles per hour will use the  
13 carwash and travel through the driveway during peak hours. Ex. 2, p. 2.<sup>1</sup> The Blue Wave Traffic  
14 Study also reflects that the movement of traffic in both directions through the carwash will create  
15 three new intersections that interface with the driveway area. I have designated these areas with  
16 numbers as shown on Figure 1 above.

- 17 a. The first of these new intersections will be located near the entrance/exit to the  
18 Easement and driveway from the frontage road., #1. Notably, all vehicles entering  
19 and exiting the Blue Wave carwash will cross through the four-way intersection that  
20 will be created by Blue Wave's proposed new opening.
- 21 b. The second intersection will be located near the entrance/exit of the vacuum area, as  
22 well as provide the exit route for cars at the end of the car wash conveyor. I expect  
23 this new intersection to have heavy traffic, as all of the cars exiting the car wash will  
24 come through this exit. At this intersection location there would be conflicts in  
25 turning movements from the car wash vehicles and existing parking maneuvers from  
26 the Delta View Center patients, as shown in Figures 2 and 3 (below) which represent

27 <sup>1</sup> I believe the estimate in the Blue Wave Traffic Study is actually incorrect and underestimated. I provide my own  
28 analysis of a more accurate estimate of vehicles per hour in the Section named "Opinion based on Independent  
Analysis" later in this declaration.

1 a detailed view of intersection #2 in Figure 1.

- 2 c. The third intersection will be at the entrance payment lane area. All Blue Wave  
3 customers will enter the car wash from this intersection. Overflowing traffic from  
4 the pay lanes will block parking maneuvers for the Delta View Center parking  
5 spaces along the shared easement driveway at and between intersections #2 and #3  
6 as shown in Figure 1.



18 **Figure 2.** Parking Maneuver OUTBOUND at Intersection #2 on Figure 1. Significant  
19 hazard with turns from new connection due to blind spots and unexpected motions of  
20 vehicles, typical of many locations on Delta View Center site.



**Figure 3.** Parking Maneuver INBOUND at Intersection #2 on Figure 1. Significant hazard with turns from new connection due to blind spots and unexpected motions of vehicles, typical of many locations on Delta View Center site.

12. **Safety hazards and negative operational impacts:** it is my opinion that Blue Wave’s traffic would create safety hazards within the Easement and thereby negatively impact the operations of the Delta View Center in the following ways:

- a. **Patient pedestrian safety hazards and delay from congestion:** The traffic volumes and vehicle movements from the carwash, including conflicts from the new intersections, would compromise the safety of the Delta View Center’s patients by impeding their ability to safely travel to and from their vehicles. These patients are also under the constraint of meeting their appointment times, which is critical to their healthcare needs. The congestion created by carwash customers would create delays for patients arriving for their scheduled dialysis appointments, who must first park and then access the Delta View Center with assistance, many of whom use wheelchairs or walkers. The Blue Wave Traffic Study did not address the critical issue of parking constraints and impact on pedestrians created by carwash traffic.

- 1           b. **Turning movement conflicts from additional traffic and intersections:** The  
2 additional carwash traffic in both directions in the Easement through the three new  
3 intersections interfacing with the driveway would create numerous turning movement  
4 conflicts in uncontrolled intersections. This would also severely inhibit existing  
5 parking maneuvers as depicted in Figures 2 and 3 (see above). The result would be an  
6 increased likelihood of vehicle accidents.
- 7           c. **New two-way traffic dynamic creates traffic flow conflict:** With the new two-way  
8 traffic dynamic caused by the carwash, there will be numerous conflicts between  
9 competing traffic flows. For example, exiting users of the Delta View Center’s  
10 parking spaces will be forced to compete for space in the Easement with Blue Wave’s  
11 customers, who utilize the Easement as part of the carwash operations. There is no  
12 adequate “turn around” area on the existing driveway unless parking spaces are used.  
13 It is not reasonable to assume that patients and others attempting to enter or exit the  
14 Delta View Center will be able to turn around with Blue Wave’s competing traffic  
15 through the Easement. Again, the result would be an increased likelihood of vehicle  
16 accidents and impede patient access to critical healthcare appointments.
- 17           d. **Public safety access for emergency vehicles compromised:** Public safety access is  
18 also compromised by Blue Wave’s proposed design. The increased traffic on the  
19 driveway will decrease the ability of emergency vehicles to promptly access the site.  
20 The proposed site plan also makes the entrance and turnaround for emergency  
21 vehicles very difficult.

22 **Traffic Engineering Analysis of Blue Wave’s Proposed use of the Easement**

23           13.       **Transformation of the parking area into a street-like configuration is**  
24 **inconsistent with the terms of the Easement:** It is my opinion that the use of the Easement  
25 proposed by Blue Wave would turn the Easement from a space primarily used for parking into a  
26 street-like configuration. The new intersections and high-volume two-way traffic are best  
27 understood as a street-like configuration that impedes the safety of pedestrians and vehicles and  
28

1 creates hazardous conditions for parking maneuvers by the Delta View Center’s patients,  
2 teammates, and other guests. A street-like configuration is incompatible with the description of  
3 the shared Easement as a “driveway” for “access,” “ingress” and “egress.” Equally, it conflicts  
4 with the purpose of the Easement “to provide for the passage of motor vehicles and pedestrians  
5 between all portions of the Common Area,” including parking areas, driveways, roadways,  
6 entrances and exits.

7 14. ***Analysis of pedestrian safety:*** It is my opinion that the street-like configuration,  
8 especially the high volume of traffic, and the disorderly traffic movement will create safety  
9 hazards for Delta View Center patients navigating the parking and driveway area as pedestrians,  
10 many of whom are non-ambulatory and use wheelchairs or require the use of walkers and/or  
11 assistance from caregivers to enter and exit the center. These conditions are also likely to cause  
12 delays in patients’ access to the Delta View Center with the potential for serious and even life-  
13 threatening health consequences.

14 15. ***Analysis of safety hazards related to perpendicular parking:*** It is my opinion that  
15 the safety of the perpendicular parking that now exists for the Delta View Center on the Easement  
16 will be significantly impacted because of the wide turning radius that is needed to enter or back  
17 out of the existing parking spaces, especially the handicap stalls. The carwash access points  
18 interfacing the existing driveway create new intersections of inbound and outbound traffic  
19 immediately adjacent to and competing with the Delta View Center’s handicap parking stalls, as  
20 shown in Figures 2 and 3.

21 16. Perpendicular parking involves designing parking spaces at a 90-degree angle to  
22 the curb or road, as the existing Delta View Center parking is laid out. Perpendicular parking  
23 design maximizes the number of possible parking spaces, and they are usually present alongside  
24 two-way traffic in the aisle, but this style of parking lot also presents parking maneuver  
25 challenges for drivers when entering and exiting the spaces due to the turning radius needed. A  
26 24-foot wide aisle is typical, but when vehicles enter or exit a space they usually need the entire  
27 24-foot width to make the maneuver in or out. Any other cars in the aisle must wait for the driver  
28

1 to finish entering or exiting the space.

- 2 a. Perpendicular parking requires wider aisles than angled parking which usually only  
3 needs 12-20 feet of aisle width, and they are usually present alongside a one-way  
4 aisle. The width of the aisle needed for angled parking spaces depends on the angle  
5 of the parking spaces.
- 6 b. Drivers entering and exiting perpendicular spaces need to be aware of other traffic  
7 (two-way traffic) in motion and other potential hazards, especially when blind spots  
8 are present, as would be the case with the addition of the new intersections that  
9 would be added with Blue Wave.
- 10 c. Perpendicular parking requires more maneuvering and more space to enter and exit  
11 parking spaces compared to parallel parking or angled parking, potentially  
12 increasing the risk of collisions when vehicles from Delta View Center have to back  
13 into a new intersection formed by Blue Wave and as depicted in Figures 2 and 3.

14 17. ***Analysis of safety hazards related to turning movements and blind spots:*** It is my  
15 opinion that the new intersections in Blue Wave's site plan would introduce multiple additional  
16 turning movements, without any right of way defined for all motorists, along with the new  
17 intersection curb returns. "Right of way" means a driver or pedestrian has the priority right to  
18 move through the intersection. Stop signs establish constraints to right of way, as do traffic  
19 signals, or painted crosswalks, etc., all informing drivers and pedestrians who has the right to  
20 cross through an intersection. If no signs, striping, or signals are installed at an intersection, then  
21 by definition the only mode of traffic that has the "right of way" is the pedestrian who, as  
22 established by the vehicle code, has priority whether a cross walk is painted or not. The parking  
23 area will also contain inherent blind spots for vehicles backing up. The resulting situation will be  
24 chaotic and hazardous. Figures 2 and 3 have been prepared to show the dangers and challenges  
25 that will face the Delta View Center's parking lot users when entering into or leaving a parking  
26 space due to the new intersections with the carwash site plan. In Blue Wave's proposal, the  
27 patient vehicles backing out of their parking spaces at the Delta View Center will be backing into

1 direct conflicting traffic from carwash drivers exiting the carwash and turning onto the driveway  
2 as if it were a street. Figure 2. The problem lies in the fact that in a normal parking lot with  
3 perpendicular parking spaces, a car entering a parking space does so by making a wide turn which  
4 means they would have to travel in the opposite parking lot aisle direction path temporarily in  
5 order to make the wide turn into the parking space. The same is true for backing out, except even  
6 more challenging due to blind spots in backing. In Figure 2, the green rectangles represent a  
7 Delta View Center vehicle backing out of the parking space which, due to turn radius limitations,  
8 must enter into the “outbound lane” (a lane dynamic created by the improperly designed carwash  
9 site plan) while having a blind spot. The vehicle backing out would be unable to determine when  
10 or whether a carwash vehicle might be exiting the carwash and turning right at the same time.  
11 This also creates a safety concern for the carwash vehicle, who also would not be prepared for a  
12 vehicle backing blindly into the same location. In my opinion, this is an accident waiting to  
13 happen; it is a hazard that Delta View Center patients should not have to face when trying to  
14 receive the critical dialysis treatments they need to survive.

15 18. ***Analysis of hazards of inbound parking maneuvers:*** It is my opinion that an  
16 inbound parking maneuver would be equally challenging, as is shown in Figure 3. Due to the  
17 turn radius limitations of entering the perpendicular Delta View Center parking spaces, the  
18 vehicle intending to park in the handicap space would need to travel in the “wrong direction” of  
19 traffic flow. This would not be a problem if the driveway remained primarily for ingress and  
20 egress to parking on each adjoining parcel, but because the carwash plan would turn the Easement  
21 into a street-like configuration with several intersections, this completely changes the traffic  
22 dynamic. It makes it less safe and increases the likelihood of accidents occurring. As shown in  
23 Figure 3, for a vehicle to enter a perpendicular parking space for handicap use, it would need to  
24 come into a turning movement conflict with carwash traffic. This increases the likelihood of an  
25 outbound vehicle from the carwash having a direct head-on collision with the existing Delta View  
26 Center patient trying to park.

1 **Opinion based on Independent Analysis**

2 19. The above analysis is based on the estimated traffic as noted in the Blue Wave’s  
3 own traffic study included with its Planning Application when requesting a zoning overlay for  
4 Parcel A.<sup>2</sup> It is my opinion, however, that the number of cars using the Easement as projected by  
5 the Blue Wave Traffic Study is inaccurate and underestimated. The Blue Wave Traffic Study  
6 bases its projections on 55 cars inbound and 55 cars outbound per hour, with 110 trip ends total  
7 per hour, during its Saturday peak hour.

8 20. I conducted a new trip generation and queue analysis based on what I viewed as a  
9 more accurate representation of what the carwash traffic impact and trip generation would be.  
10 According to the ITE Trip Generation Manual 11th edition for Land Use 948, a carwash similar  
11 in size to the proposed Blue Wave project (4000 SQFT carwash building) reported 150 trip ends  
12 (75 cars inbound and 75 cars outbound) during its Saturday peak hour. It is my opinion that this  
13 is a more accurate figure to assess the likely impact of the Blue Wave carwash. Because I believe  
14 75 vehicles per hour is a reasonable estimate of Blue Wave’s peak carwash traffic, it is my  
15 opinion that patrons of the carwash will tend to back up or “queue” into the driveway, as the  
16 carwash is not equipped to handle 75 cars per hour without generating overflow into the shared  
17 driveway.

18 21. To come to this conclusion, I created a traffic simulation model using industry  
19 standard Synchro and SimTraffic traffic engineering software to see what the projected back up  
20 of traffic flows would be for 75 cars per hour trying to get through a carwash tunnel that can only  
21 process up to 60 vehicles per hour. In my microsimulation model, I modeled the carwash tunnel  
22 entrance, allowing up to one car per minute to enter the carwash, and used standard factors for  
23 queues and typical arrival rates built into the microsimulation model of animated traffic. I  
24 observed that after one hour of arrival there was a queue of 25 vehicles still waiting to get into the  
25 carwash tunnel. It is further my opinion that since the carwash traffic continues from hour to  
26 hour throughout the day, and depending on the arrival rate versus the carwash tunnel constrained  
27 throughput of a maximum of 60 vehicles per hour, this queue could continue to grow if the

28 <sup>2</sup> See Exhibit 2 for Blue Wave Site Plan


1 demand remains similar or close to the peak hour for the hour before and after peak use. This  
2 would create lines of traffic that could block the parking lot aisles, and thus block access to  
3 parking spaces designed for and dedicated for Delta View Center patients.

4 **Conclusion**

5 22. In conclusion, it is my professional opinion that Blue Wave's proposed car wash at  
6 1160 E. Leland Road will have a negative impact on the Delta View Center by unreasonably  
7 burdening the Easement shared by both parcels, including by turning the parking access road into  
8 a street-like configuration and compromising the ability of the Delta View Center's patients to  
9 safely and efficiently access the Delta View Center. The impacts of Blue Wave's proposed use  
10 include: 1) creating hazardous and unsafe conditions as patients navigate through the parking and  
11 driveway areas, both in vehicles and as pedestrians, and 2) causing delays getting into the facility  
12 that may disrupt patients' dialysis treatment schedules on which they depend for life-saving care  
13 and negatively impact the operations of the Delta View Center.

14 23. It is also my professional opinion that the Blue Wave Car Wash has  
15 underestimated its likely traffic at peak hours and that cars from the Blue Wave Car Wash will  
16 tend to back up into the easement during peak hours. The constant influx of Blue Wave traffic as  
17 well as outbound Blue Wave traffic will interfere with the normal parking operations and  
18 handicapped pedestrian traffic currently present in the parking areas.

19  
20 I declare under penalty of perjury under the laws of the State of California that the foregoing  
21 is true and correct to the best of my knowledge. Executed on June 16, 2025, in SAN FRANCISCO  
22 California.

23   
24 Grant Johnson

# Exhibit 1

# Grant Johnson, TE, Resume/CV

## Principal, Project Manager/Engineer



Grant Johnson is a Principal Engineer of PRISM Engineering. He is a registered Traffic Engineer in the State of California (TR#1453). He has been a leader in traffic engineering and transportation planning for 40 years. He has extensive experience in site inspections for expert witness cases in several western US states: CA, HI, UT, AZ, WA, as well as for US DOJ. He spent 2.5 years doing high-level transportation and traffic engineering while living in China with his family. He also worked in leadership capacity as the Chief Site Engineer on a 70 km section of Bullet Train construction connecting Beijing to Shenyang. He has an international experience in traffic engineering that enhances his experience in the US. More recently Grant has been involved in numerous expert witness cases for accidents involving Traffic Engineering expertise. His creative perspective and keen eye for traffic safety comes from practical hands-on experience in the field, as well as a thorough understanding of design and safety principles contained in the MUTCD, AASHTO Green Book, and State Highway Design Manuals.

### **Total Experience**

40 Years

### **Professional Registration**

Licensed Traffic Engineer  
in the State of California  
TR #1453



### **Education**

California State University,  
Sacramento  
BS Civil Engineering  
1984

Grant has much experience in traffic engineering and transportation planning services including multi-modal corridor studies, intersection design including signal design, traffic operations analysis, micro-simulation of traffic. In addition, extensive experience in travel demand modeling, report writing, transportation master plans, public presentations. He was Chief Site Engineer over 70 km of China's bullet train construction connecting Beijing to Shenyang while supervising work over hundreds of engineers and construction workers.

### **EXPERT WITNESS AS A TRAFFIC ENGINEER**

A wide variety of Expert Witness cases involving:

- ▶ examination of all roadway and traffic conditions,
- ▶ examining traffic control device installations for compliance to MUTCD standards,
- ▶ measuring vehicle sight distance,
- ▶ vehicle speeds,
- ▶ traffic patterns.

Recent cases involve:

- 1) Nighttime trucking accident at major food company distribution center, poor lighting in truck parking lot. Plaintiff against Corporation. For Plaintiff against Corporation.



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### **Professional Affiliations**

Institute of Transportation  
Engineers (ITE)

American Public Works  
Association (APWA)

- 2) Car/motorcycle accident at industrial park large intersection with some sight distance constraints and alleged lane striping deficiency. For Defense of City.
- 3) Vehicle hits Cattle herd crossing AZ State highway at night. No fences, no lights, horizontal and vertical curves. For Plaintiff versus AZ State DOT.
- 4) Truck overturn accident on improperly designed and negligently maintained county highway. For Plaintiff against CA county.
- 5) Sight distance issues on neighborhood collector / arterial intersection. Wall, bushes, and roadway design. For plaintiff against CA City.
- 6) Vehicle hit by Light Rail, signal dispute. For Defense of CA City controlling signals, signs.
- 7) Signal Timing issue on Expressway w/Car/Car fatality. For Plaintiff Defense of Driver and finding liability on CA city.
- 8) UT State highway and pedestrian fatality on sidewalk. Design flaws. Safety flaws. Lighting. Improper TCDI installations. For Plaintiff versus driver and UT State DOT.
- 9) Railroad crossing W/Ped fatality, skewed intersection. For Defense of City.
- 10) High school X-Walk w/severe Ped injury, Sight distance. Defense of City.
- 11) Absence of guardrail and motorist run off freeway fatality. For Plaintiff versus CA State DOT.
- 12) Motorcycle run off freeway offramp, alleged poor design. For Defense of CA DOT.
- 13) Absence of sufficient guardrail, vehicle plunges into dry canal, fatal. For Plaintiff versus CA DOT
- 14) Multiple close signals near freeway ramp w/Ped fatality hit by semi-truck turning into X-Walk. For Defense of City.
- 15) Pedestrian killed in crosswalk. Alleged signal timing deficiency. Sun glare. For Plaintiff against CA City.
- 16) Motorcycle ran off road, hit utility pole. For Defense of local CA Utility Company.
- 17) Motorcycle fatality in construction zone. For Defense of Contractor and Temporary Traffic Control plan sheets.

### **Partial List of Recently Completed Cases (alphabetized):**

- Arcadia, CA, Liu v. Alhambra Motors, Ped/Car/X-Walk
- Antioch, CA, Nartea v Sabedra, Car hits Skateboarder at Traffic Signal
- Arizona Grand Canyon, AZ, PARTHASARATHI v. STATE OF ARIZONA & UNITED STATES. Car hits Cow, Head-on Car
- Calaveras County, CA, Bowser vs Reed, Car/Ambulance fatality, sun was factor in sight distance
- Dixon, CA, Glenda Dew vs Caltrans, Head-on, fatal
- Emeryville, CA, Abad vs City, Fatal truck accident in Xwalk
- Fairfield, CA, Coppes v CALTRANS



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- Fort Duchesne, UT US vs Austin, Construction Zone Temporary Traffic Control, Signage improperly installed.
- Fresno, CA, Paulino vs Jensen/Car hits long truck crossing two close spaced intersections
- Harriman, UT, High speed fatality on Utah DOT expressway, signal dilemma zone, sight distance
- Harriman, UT, Hancock v Holbrook, Car hits Pedestrian
- Honolulu, HI, Farrington Hwy, hit fixed obj., no guardrail
- Honolulu, HI, Farrington Hwy, Ped killed in crosswalk, poor lighting, mistakes in roadway design work.
- Hollywood, CA, Babak vs Grace & Frankie, Car/Truck
- Lancaster, CA, Romines vs Lancaster/Broadside fatality
- Laguna Hills, CA, John Doe vs Orange County Fire Authority/Fire Truck hits car at signal, high speeds
- Los Angeles CALTRANS vs Blanca Cavazos Motorcycle/Car
- Manteca, CA, Roundabout: Motorcycle fatal accident
- Manteca, CA, School Ped/Car accident in X-Walk
- Marin County, CA, CALTRANS Pino vs State, Car/CHP
- Marin County, CA, Goralka, Speed and Stopping sight distance on Panoramic Highway
- Marin County, CA, Rosenthal vs Johnson, Bike/Car accident @ Four Corners intersection
- Martinez, CA Daniel Nall vs CALTRANS, Motorcycle/Car
- Modesto, CA, Bernal vs Mendez, City, County, CALTRANS
- Newport Beach, CA, Heyer v Sosa, Broadside Car at Signal
- Oakley, CA, Vancil vs City, Bike/Car
- Pittsburg, CA, Sandoval vs City, Guardrail: Run off road
- Richmond, CA, Melida Diaz, RR Xing Ped/Train fatality
- Richmond, CA, Sakura Sims vs City, Ped/Car at X-Walk
- Richmond, CA, Jones & Randall, Motorcycle/Truck
- Richmond, CA, Ms Norma Supapo, Ped/Car fatality at unmarked intersection, sight distance issues
- Rocklin, CA, Googooian vs Anastasia, Car/Car stop sign
- San Francisco, CA, MICHAEL GUERRERO v MILESTONE CONTRACTORS, Truck hits Scooter at Signal
- San Bernadino County, CA, Tufesa USA v Rafael Guerrero Serratos, Carpool Van veers off freeway at night, fatality.
- San Rafael, CA, Ketron vs City, Ped/Car at X-Walk
- San Rafael, CA, Zaslavski vs City, Ped/Truck fatality
- Riverside County, CA, Penelope v Caltrans/Riverside County, Motorcycle hits Car on Highway intersection
- Temecula, CA, Romero vs Kimco/Parking Lot Accident
- Turlock, CA, Sederquist vs Turlock/Flooding Accident
- Vacaville, CA, Glenda Dew vs State of CA, Ped/Car
- Washington State, U.S. Department of Justice, FBI car
- West Jordan, UT, Fair vs Flake, Chick-Fil-A, Construction Zone accident (broadside, two cars) Signal/Obstruction



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## **TRAFFIC ENGINEERING EXPERIENCE**

- Sacramento, CA, Safety Study and Alternatives Analysis for Heritage Oaks Hospital at I-80 Offramp at Auburn Blvd. Numerous accidents.
- Marin County, CA, On-Call Engineering Services contract w/Public Works
  - Panoramic Highway intersection design layout.
  - US 101/SR 131 Interchange Traffic Operations Study.
- Santa Rosa, CA, major traffic study and traffic engineering recommendations.
- Shasta Lake, CA, Radar Speed Surveys in, 52 locations, TE Stamp.
- City of Watsonville traffic engineering investigations relating to school traffic, trains, and safety of students, safe routes to school.
- Chico, CA, SR 99/Eaton Rd Interchange Traffic Operations Study.
- City of Pasadena traffic engineering study investigating peak traffic, bus ridership, and level of service (LOS) methods (errors in process, wrong results).
- Vallejo, CA, Charter School innovative mitigations, Travel Demand Management.
- Chongqing, China, Trip Generation Survey LongHuXiYuan: Peds, Taxi, Cars.
- Chongqing, China Parking Study YueLai Conference Center: Freeway level incoming traffic flows to massive parking areas.
- NCTC, Nevada County, CA, On-Call Traffic Engineering Studies.

## **TRANSPORTATION PLANNING EXPERIENCE**

- City of Santa Rosa Habit Burger Traffic Impact Analysis, 15 intersections.
- Vacaville, CA, On-Call Traffic Engineering Services Contract, Traffic Study.
- Fairfield, CA, Travis AFB residential development Traffic Studies.
- Marin County, CA, Planning Dept., Alta Way Residential Traffic Report.
- Vallejo, CA, Charter School Traffic Impact Study.
- Chongqing, China, YueLai Newtown VISSUM Traffic Model Development.
- Vacaville, CA, Leisure Town Bypass, Traffic Model Alternatives.
- Los Banos, CA, Citywide TRANSCAD Model Development, 600 zones
- Los Banos, CA, Transportation Master Plan
- NCTC, Nevada County, CA, On-Call Transportation Planning.

## **PROJECT MANAGEMENT**

Chief Site Engineer in Liaoning Province in China over Engineering Inspection. Had "Stop Order" authority for 70 km of China's bullet train construction of tunnels, bridges, viaduct, foundations, piers, towers, and stations. Oversaw manufacturing of concrete, rebar, and quality control. All-Mandarin environment.

## **ROUNDBABOUTS**

- ▶ *Caltrans SR 49 / Pleasant Valley Road at Faith Lane,*
- ▶ *Roundabout Study I-80 Lewis Road / Weber Road interchanges, Solano County, CA,*
- ▶ *SR 49 Freeway Ramps and Main Street intersection Roundabout, Grass Valley, CA.*



<http://www.prismengr.com/>

# EDUCATION. PROFESSIONAL LICENSES



**Grant P. Johnson, TE**  
**PRISM Engineering**  
**TRAFFIC ENGINEER**

Currently Registered as a **Traffic Engineer in the State of California TR #1453**

Received BS in Civil Engineering, California State University, Sacramento, in 1984:



## **PRISM Engineering**

Grant P. Johnson, TE, Principal  
870 Market Street, Suite 1010  
San Francisco, CA 94102  
voice: (916) 903-3862  
email: [grant@prismengr.com](mailto:grant@prismengr.com)

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# Exhibit 2

**Appendix H:  
Transportation Analysis**

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July 28, 2021

Ms. Mary Bean  
First Carbon Solutions (FCS)  
1350 Treat Boulevard, Suite 380  
Walnut Creek, CA 94597

## **Focused Transportation Analysis for the BlueWave Carwash Express Project**

Dear Ms. Bean;

As requested, W-Trans has prepared a focused transportation analysis for the proposed BlueWave Carwash Express project to be located at 1160 East Leland Road in the City of Pittsburg. The purpose of this letter is to address the project's potential traffic impacts, site access, circulation, and on-site queuing.

### **Existing Conditions**

In the City of Pittsburg, East Leland Road is a four-lane arterial that runs east-west between Railroad Avenue and Century Boulevard. Along the project frontage the roadway has a speed limit of 40 miles per hour (mph) and two 11-foot vehicle travel lanes in each direction separated by a raised median. It also has a 5-foot bicycle lane and continuous sidewalk in both directions of travel.

### **Project Description**

The proposed project would include an automated car wash facility with 22 self-service vacuum stalls on a vacant parcel located between an existing medical office building at 1150 East Leland Road and a gas station at 1190 East Leland Road. Customers would access the project site via an existing driveway on East Leland Road which is shared with the medical office building to the west of the site. Patrons would also have access to the site through the gas station east of the site. The car wash structure consists of a 3,600 square foot building which uses a conveyor style operation. The proposed project site plan is enclosed.

### **Trip Generation**

The anticipated trip generation for the proposed project was estimated using standard rates published by the Institute of Transportation Engineers (ITE) in *Trip Generation Manual*, 10<sup>th</sup> Edition, 2017 for "Automated Car Wash" (ITE LU 948). The peak hour is anticipated to occur during the weekend midday which is common for similar land uses. The project site is located on a currently vacant lot and therefore no trip credits were assigned for an existing land use.

### **Pass-by Trips**

Some portion of traffic associated with the car wash would be drawn from existing traffic on East Leland Road. These vehicle trips are not considered "new," but would instead be comprised of drivers who are already driving on the adjacent street system and choose to make an interim stop and are referred to as "pass-by." The percentage of these pass-by trips was based on information provided in the *Trip Generation Handbook*, 3<sup>rd</sup> Edition, Institute of Transportation Engineers, 2017. Since the *Handbook* does not provide a pass-by trip percentage for an Automated Car Wash, the pass-by trip percentages for Gasoline Service Station (ITE LU 944) were used as a reference. To provide a conservative estimate, it was assumed that 25 percent of the proposed car wash trips would be pass-by trips, which is lower than the pass-by trip percentage of 44 percent for the Gasoline Service Station land use.

**Total Project Trip Generation**

The expected trip generation potential for the proposed project is indicated in Table 1, with deductions taken for pass-by trips. The proposed project is expected to generate an average of 110 trips during the weekend peak hour. After deductions are taken into account, the project would be expected to generate 82 trips during peak hour.

<b>Table 1 – Trip Generation Summary</b>					
<b>Land Use</b>	<b>Units</b>	<b>Weekend Peak Hour</b>			
		<b>Rate</b>	<b>Trips</b>	<b>In</b>	<b>Out</b>
<b>Proposed</b>					
Automated Car Wash	3.6 ksf	30.40	110	55	55
<i>Pass-by</i>		-25%	-28	-14	-14
<b>Total</b>			<b>82</b>	<b>41</b>	<b>41</b>

Note: ksf = 1,000 square feet

**Site Access and Circulation**

The site would not result in the construction of any new driveways as access would take place via an existing driveway shared with the medical office as well as from the adjacent gas station.

**Sight Distance**

At driveways, a substantially clear line of sight should be maintained between the driver of a vehicle waiting to enter the street and the driver of an approaching vehicle. Sight distances along East Leland Road at the project driveway were evaluated based on sight distance criteria contained in the *Highway Design Manual* published by Caltrans. The recommended sight distances for driveway approaches are based on stopping sight distance and use the approach travel speed as the basis for determining the recommended sight distance.

Since East Leland Road has a posted speed limit of 40 mph, the recommended stopping sight distance is 300 feet. Sight distance at the project driveway extends over 300 feet to the west along level and unobstructed terrain. Sight lines to the east were not measured as egress is limited to right turns only by the existing center median island.

**Finding** – Sight distance along East Leland Road at the project driveway is adequate based on existing conditions.

**Recommendation** – It is recommended that any trees and vegetation near the project driveway on East Leland Road be trimmed as necessary to maintain adequate sight distance at the driveway.

**Emergency Access**

Emergency response vehicles would be able to access the site via the project driveway on East Leland Road. The proposed 35-foot wide driveway and drive aisles meet current City standards and so can be expected to accommodate the access requirements for both emergency and passenger vehicles.

**Finding** – Emergency access is expected to operate acceptably.

### **On-Site Circulation**

The access and circulation associated with the project site was assessed to determine if the site's layout would provide adequate space and drive aisles for vehicles to maneuver throughout the site. Based on a review of the site plan, the internal drive aisle that connects the driveway to the car wash pay stations would have three one-way lanes and a width of 47 feet, which would provide adequate space for vehicles to transition to a single 14-foot lane to access the car vacuum or car wash facility. There would also be a bi-directional 30-foot wide drive aisle between the self-service vacuum stalls that would allow customers to maneuver their vehicles into and out of each service stall. Per the *City of Pittsburg Municipal Code 18.78.050; Parking Facility Design Standards*, the required minimum width of a two-way traffic drive aisle providing access to perpendicular parking spaces is 25 feet. The project drive aisle would meet this requirement.

The transitional area between the pay stations and car wash tunnel includes a relatively small area where three lanes merge into a single lane. To minimize the potential for conflicts if multiple vehicles exit the pay area simultaneously, it is recommended that a gate be installed at the egress of each pay station which is intended to control and spread out the movement of vehicles between these two areas.

**Finding** – Vehicle access and internal circulation within the project site would be adequate. A gate is recommended at each pay station to control vehicle movements and alleviate the potential for conflicts.

### **Queuing Analysis**

A queuing analysis was conducted to identify the potential queuing of vehicles accessing the project site and to determine whether vehicles waiting to access the car wash would spill back onto East Leland Road. Since the project site includes three distinct areas, an automated car wash, self-service vacuum stations and a pay station, the queuing analysis was divided into three parts.

The 95<sup>th</sup>-percentile queue is generally applied as the acceptable limit for on-site circulation impacts. To assess the potential queuing for the site, factors such as the storage capacity, arrival rate and service rate were considered. The arrival rate is defined as the number of patrons arriving at the facility per hour. Similarly, the service rate is defined as the number of patrons served within an hour. The applied service rate was based on data regarding the typical time needed to completely service each vehicle.

#### *Pay Station*

For the queuing at the three pay stations a storage capacity of 24 vehicles was assumed (three lanes able to store eight vehicles in each lane) before a queue would spill back into the shared drive aisle. A service rate of 20 vehicles per hour was assumed, which is based on the assumption that it takes three minutes to complete a transaction for each car.

Based on the trip generation estimate, a maximum arrival rate of 55 vehicles per hour was applied to the analysis. Applying these rates produced a calculated 95<sup>th</sup> percentile queue length of 10 vehicles, which can be accommodated by the pay station approach lanes which have a 24-vehicle capacity. The queuing calculation worksheet is enclosed for reference.

#### *Automated Car Wash*

The approximately 175-foot drive aisle connecting the pay stations and the entrance to the car wash tunnel can accommodate a queue of seven vehicles. The automated car wash facility would employ a conveyor style operation which has a capacity to wash up to three vehicles in close succession within the tunnel structure. According to the site operator, the car wash tunnel is capable of processing approximately one vehicle per minute (or 60 vehicles per hour) during peak operations. Based on the peak hour trip generation, the maximum arrival rate would be 55 vehicles per hour. If the car wash facility is in use when a customer is at the pay station, they

would wait in line within the driveway between the pay station and the car wash entrance, or wait for their turn in one of the three lanes approaching the pay stations.

Applying these rates produced a calculated 95<sup>th</sup> percentile queue length approaching the car wash entrance of seven vehicles, which is equal to the storage capacity of the drive aisle between the pay stations and car wash entrance. The queuing calculation worksheet is enclosed for reference.

*Self-Service Vacuum Area*

The vacuum area is comprised of 22 self-service spaces. These spaces can serve at least 88 cars per hour assuming a typical vacuum service can be completed in 15 minutes or less. Therefore, the 22-space service area would provide adequate capacity since the serving capacity of 88 cars per hour is greater than the trip generation of 55 cars per hour. This is a conservative analysis since it is recognized that only a portion of all customers purchasing a car wash would also use the vacuum service.

**Finding** – Based on the assumed arrival and service rates, the proposed on-site vehicle storage capacity is expected to adequately accommodate the vehicle queue in all areas of the site, and no spillover onto East Leland Road is anticipated.

**Conclusions and Recommendations**

- The proposed project is expected to generate an average of 82 new peak hour trips during the weekend day.
- Vehicle access and internal circulation at the project site would be adequate. A gate is recommended at each pay station to control vehicle movements and alleviate the potential for conflicts.
- Sight distances at the project driveway are adequate based on existing conditions. It is recommended that any trees and vegetation near the project driveway on East Leland Road be trimmed as necessary to maintain adequate sight distance at the driveway.
- Adequate emergency access to the project site would be provided from East Leland Road.
- The on-site vehicle stacking spaces in each area of the site would be adequate to accommodate the anticipated peak hour demand, and therefore vehicles are not anticipated to back up onto the project driveway at East Leland Road.

Thank you for giving W-Trans the opportunity to provide these services. Please call if you have any questions.

Sincerely,

*Kimberly Tellez*

Kimberly Tellez  
Assistant Engineer

*Mark E. Spencer*

Mark Spencer, PE  
Senior Principal

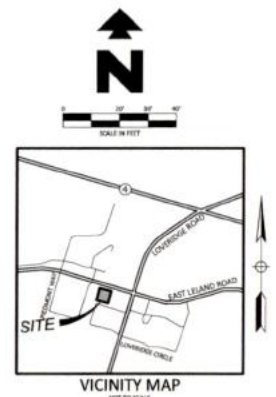
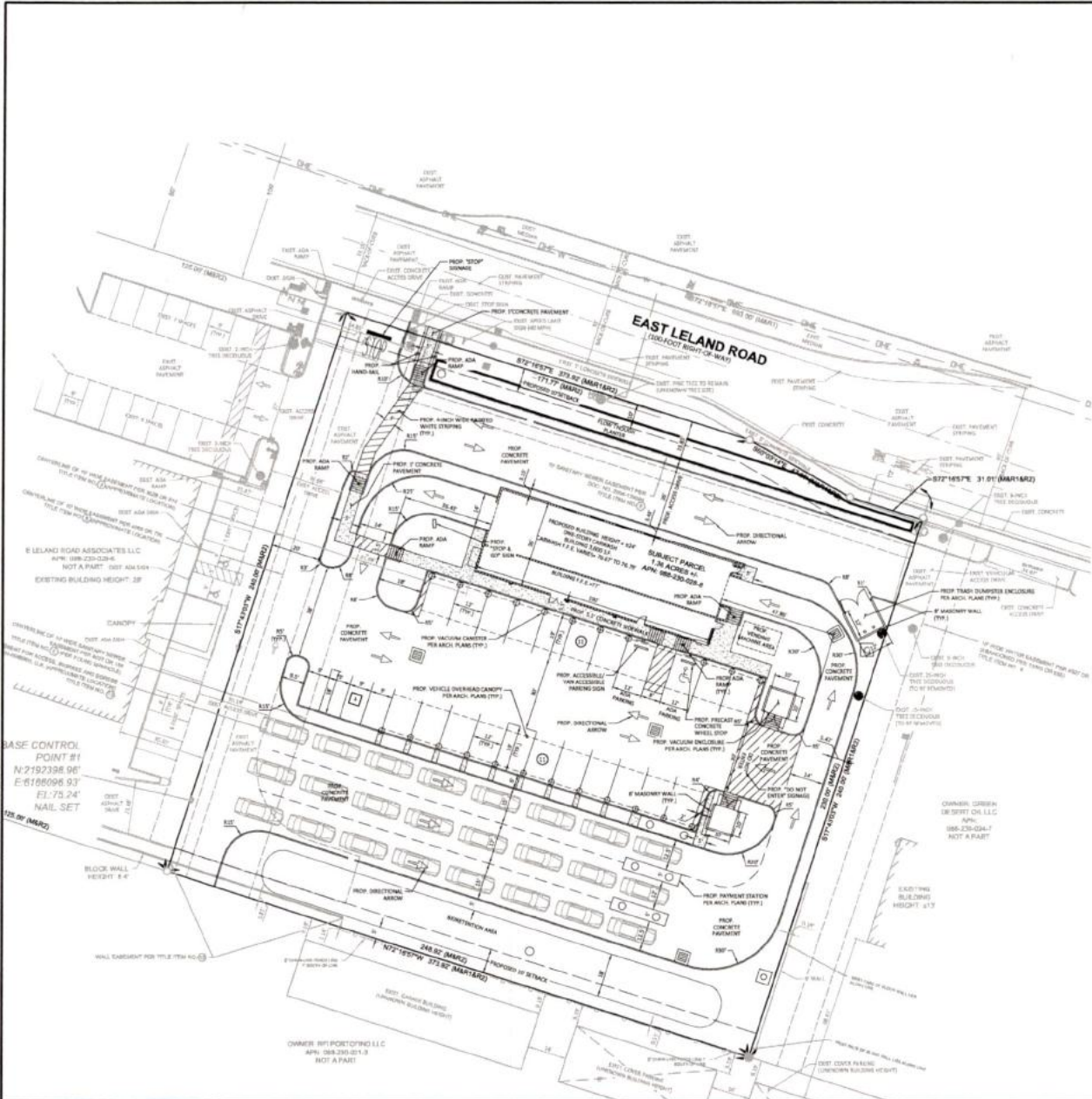
MES/kj-kt/PIT012.L1



*Kenny Jeong*

Kenny Jeong, PE  
Traffic Engineer

Enclosures: Site Plan, Queuing Worksheets



- EXISTING LEGEND**
- ⊕ CONTROL - IRON PIPE
  - ⊕ CONTROL - NAIL SET
  - ⊕ DOME
  - ⊕ ELECTRIC - BOX
  - ⊕ ELECTRIC - RISER
  - ⊕ ELECTRIC - VAULT
  - ⊕ FIRE DEPARTMENT CONNECTION
  - ⊕ FIRE HYDRANT
  - ⊕ IRON PIPE FOUND
  - ⊕ IRON PIPE SET
  - ⊕ IRRIGATION CONTROL VALVE
  - ⊕ LIGHT POLE
  - ⊕ LIGHT POLE - 2 LIGHTS
  - ⊕ POWER - POLE
  - ⊕ ROOF DRAIN
  - ⊕ SANITARY SEWER - MANHOLE
  - ⊕ SIGN
  - ⊕ SIGN - STOP
  - ⊕ STORM DRAIN - GRATE
  - ⊕ STORM DRAIN - MANHOLE
  - ⊕ STRIPING - ARROW STRAIGHT
  - ⊕ TELEPHONE - BOX
  - ⊕ TELEPHONE - VAULT
  - ⊕ TRAFFIC SIGNAL - BOX
  - ⊕ TREE - DECIDUOUS
  - ⊕ UNKNOWN - BOX
  - ⊕ WATER - BOX
  - ⊕ WATER - METER
  - ⊕ WATER - VALVE
- PROPOSED LEGEND**
- PROPERTY LINE (HEIGHT OF WALL LINE)
  - CONCRETE CURB AND GUTTER, SEE DETAIL 51A
  - STRIPING
  - LIMITS OF SIDEWALK AND CONCRETE WALKWAY (PER EACH PLANE)
  - ROAD CENTERLINE
  - CHAIN LINK FENCE
  - TELEPHONE LINE - UNDERGROUND
  - ELECTRIC LINE - OVERHEAD
  - ELECTRIC LINE - UNDERGROUND
  - WATER LINE - UNDERGROUND
  - SEWER LINE - UNDERGROUND
  - STORM LINE - UNDERGROUND
  - PROPERTY BOUNDARY LINE
  - BUILDING OUTLINE
  - ADJACENT PROPERTY LINE
  - EXISTING EASEMENT LINE

SITE DATA	
SITE AREA	1.36 ACRES
BUILDING AREA	3,600 SF
PARKING PROVIDED	26 SPACES
# OF VACUUM STALLS	20 CUSTOMER, 2 ADA
# OF PAY STATIONS	4 PAY STATIONS
# OF EMPLOYEE PARKING	4 EMPLOYEE PARKING
PERCENT OF LOT COVERAGE	.888
FLOOR AREA RATIO	.061
PERCENT OF LANDSCAPE COVERAGE	.197

BASE CONTROL POINT #1  
N: 2192386.96'  
E: 6186096.93'  
ELEV: 75.24'  
NAIL SET



CEI ENGINEERING ASSOCIATES, INC.  
8000 LA FAYETTE, SUITE 100  
DALLAS, TX 75238  
PHONE: (972) 484-1743  
FAX: (972) 484-6732



BLUEWAVE CARWASH EXPRESS  
1160 EAST LELAND ROAD  
PITTSBURGH

PRELIMINARY  
NOT FOR  
CONSTRUCTION

PROFESSIONAL OF RECORD	KOA
PROJECT MANAGER	DMW
DESIGNER	COI
CD PROJECT NUMBER	31880
DATE	3/18/2021
REVISION	R01-1

SITE PLAN  
SHEET TITLE  
SHEET NUMBER

C1

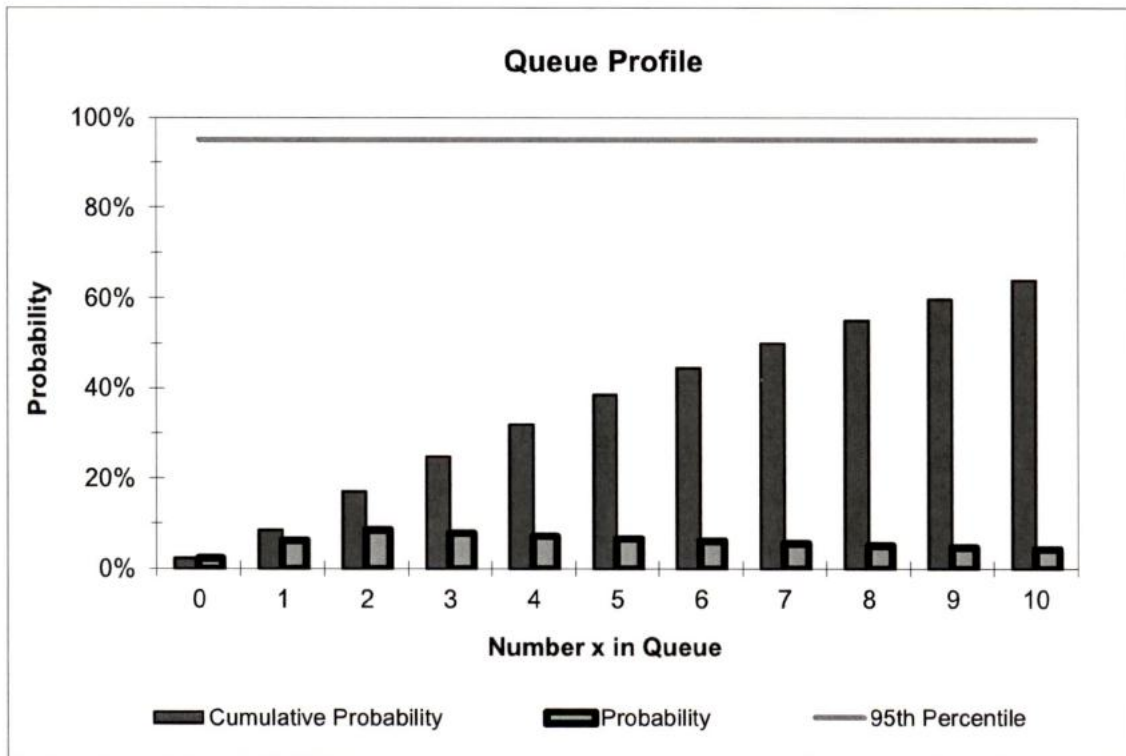
# Drive Through Queuing Evaluation Worksheet

Project: Blue Wave Express Carwash  
 Project No: PIT012

By: KT  
 Date: 6/18/2021

Arrival Rate (veh/hr): <u>55</u>	No. of Service Points: <u>3</u>
Service Rate (veh/hr): <u>20</u>	Queuing Capacity (veh): <u>24</u>

Probability the System is Empty	2%
Probability the System is Full	1%
Probability That Customer Waits	83%
Average Time Customer Waits	10.1 minutes
Average Time Customer Waits To Get To Service Point	7.1 minutes
Probability That a Customer Elects Not to Enter the Queue	1%
Average In System	9.2 vehicles
Average Total Length of Vehicles in System	230 feet
95th Percentile in System	10 vehicles
95th Percentile Total Length of Vehicles in System	250 feet



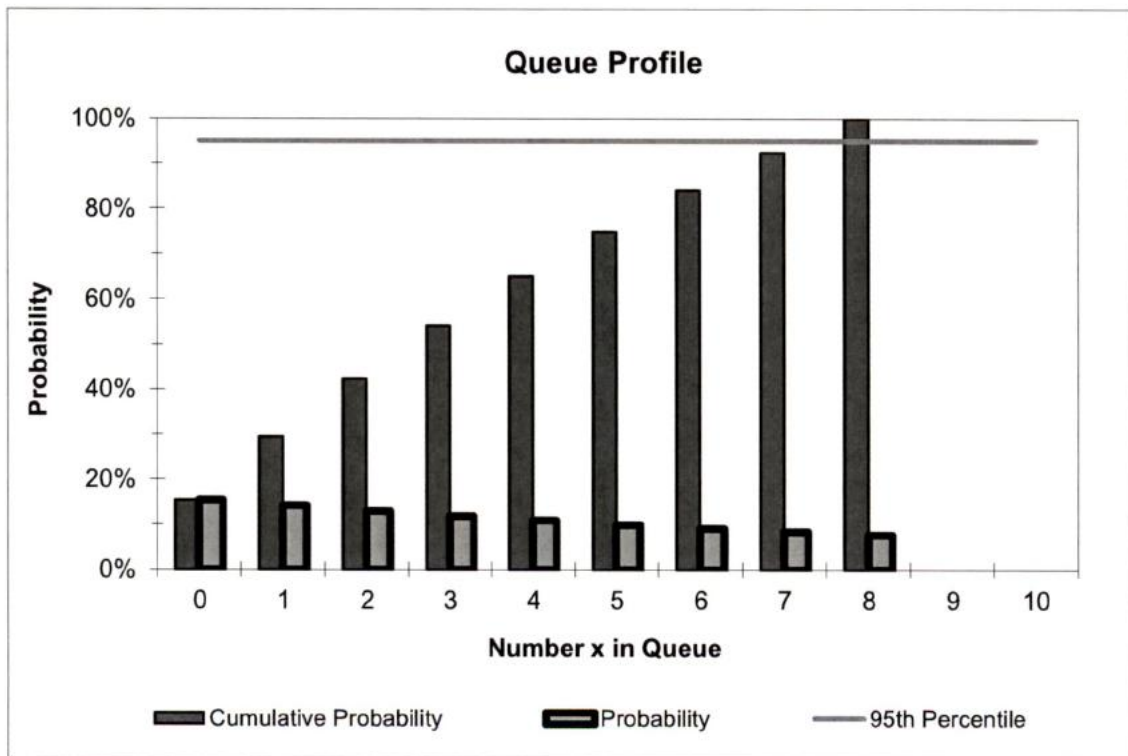
# Drive Through Queuing Evaluation Worksheet

Project: Blue Wave Express Carwash  
 Project No: PIT012

By: KT  
 Date: 6/18/2021

Arrival Rate (veh/hr): <u>55</u>	No. of Service Points: <u>1</u>
Service Rate (veh/hr): <u>60</u>	Queuing Capacity (veh): <u>7</u>

Probability the System is Empty	15%
Probability the System is Full	8%
Probability That Customer Waits	85%
Average Time Customer Waits	4.0 minutes
Average Time Customer Waits To Get To Service Point	3.0 minutes
Probability That a Customer Elects Not to Enter the Queue	8%
Average In System	3.4 vehicles
Average Total Length of Vehicles in System	86 feet
95th Percentile in System	7 vehicles
95th Percentile Total Length of Vehicles in System	175 feet



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# **EXHIBIT 5**

**DECLARATION OF YOCHAI KIDRON IN SUPPORT OF  
APPLICATION FOR TEMPORARY RESTRAINING ORDER**

1 Sam Ferguson (270957)  
sam@fergusonlawpc.com  
2 Katharine Kates (155534)  
katharine@fergusonlawpc.com  
3 FERGUSON LAW PC  
1816 5<sup>TH</sup> Street  
4 Berkeley, CA 94710  
Tel.: (510) 548-9005

5 William Berland (43879)  
bill@fergusonberland.com  
6 FERGUSON & BERLAND  
7 1816 5<sup>TH</sup> Street  
Berkeley, CA 94710  
8 Tel.: (510) 548-9005

9 Noah Berland (227018)  
noah@ndblaw.com  
10 1816 5<sup>th</sup> Street  
Berkeley, CA 94710  
11 Tel.: (510) 548-9005

12 Attorneys for Plaintiffs  
E. Leland Road Associates, LLC and Total Renal Care, Inc.

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 COUNTY OF CONTRA COSTA

15 E. LELAND ROAD ASSOCIATES,  
16 LLC, a California Limited-Liability  
17 Company, and TOTAL RENAL CARE,  
INC.

18 Plaintiffs,

19 v.

20 BW E LELAND PITTSBURG LLC,

21 Defendant.

**FILED**  
JUN 30 2025  
F. LI CLERK OF THE COURT  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF CONTRA COSTA  
By: \_\_\_\_\_ Deputy Clerk

Case No. C25-01748

**DECLARATION OF YOCHAI KIDRON IN  
SUPPORT OF APPLICATION FOR  
TEMPORARY RESTRAINING ORDER  
AND PRELIMINARY INJUNCTION**

1 I, Yochai Kidron, declare as follows:

2 1. I am the managing member of E. Leland Road Associates, LLC, the owner of the  
3 parcel located at 1150 East Leland Road, Pittsburg, California. E. Leland Road Associates, LLC  
4 leases that parcel to Total Renal Care, Inc., a wholly owned subsidiary of DaVita Inc.  
5 (“DaVita”). I make this declaration in support of Plaintiffs’ application for a temporary  
6 restraining order and preliminary injunction. I have personal knowledge of the matters stated  
7 herein and could and would competently testify thereto if called upon to do so.

8 2. On April 6, 2010, Pittsburg Leland Group, L.P. recorded a “Declaration of  
9 Easements, Covenants, Conditions and Restrictions” (the “Easement”) governing two parcels on  
10 East Leland Road in Pittsburg, CA. A true and correct copy of the Easement is attached hereto as  
11 Exhibit 1. The Easement governs two parcels: Parcel B, located at 1150 East Leland Road; and  
12 Parcel A, located at 1160 East Leland Road. E. Leland Road Associates, LLC is a subsequent  
13 purchaser of Parcel B and is subject to the easement that runs with the land.

14 3. Under the terms of the Easement, E. Leland Road Associates, LLC, the current  
15 owner of Parcel B, is an “Owner.” Exhibit A at ¶ 1(a). Davita, as the lessee of Parcel B, is a  
16 “Permittee.” Exhibit 1 at ¶ 1(c).

17 4. Defendant BW E LELAND PITTSBURG LLC (referred to as “Blue Wave”  
18 herein) is the current owner of the parcel at 1160 E. Leland Road in Pittsburg, CA. This is  
19 “Parcel A” under the Easement.

20 5. Parcel A is currently vacant. In the fall of 2024, I learned that Blue Wave  
21 intended to build a Blue Wave Express car wash on Parcel A. I also learned that Blue Wave  
22 proposed utilizing a shared driveway that runs north/south between the parcels, as well as a  
23 shared common area that is an offshoot of that driveway that runs east-west off the main  
24 driveway to facilitate circulation into and out of a conveyer-operated self-service carwash. A

1 diagram of the parcels, as well as the shared driveway, is included as exhibit B to the Easement.  
2 Ex. 1 at attachment Ex. B.

3 6. I also first learned that the City of Pittsburg had granted Blue Wave a zoning  
4 variance through a Zoning Overlay District and a Use Permit in the fall of 2024. A true and  
5 correct copy of the Pittsburg City Council Ordinance No. 23-1506, adopting the Zoning Overlay  
6 and Use Permit is attached hereto as Exhibit 2.

7 7. I also learned that Blue Wave submitted a traffic study to the City of Pittsburg  
8 with its application. As set forth in the traffic study submitted by Blue Wave to the City of  
9 Pittsburg, Blue Wave's proposed use as a carwash will create a substantial increase in traffic and  
10 will also add several intersections for entrances and exits to the existing driveway. *See*  
11 Declaration of Grant Johnson, ¶¶ 4, 12-13, 21-22 (concurrently filed herewith).

12 8. As set forth in the Declaration of Clinton Johnson, filed herewith, DaVita operates  
13 a dialysis clinic on Parcel B, known as the Delta View Center. As referenced, nearly all of the  
14 Delta View Center's patients have end stage renal disease. This is a vulnerable patient  
15 population. Many of the patients are non-ambulatory and the overwhelming majority of patients  
16 need some assistance in physically getting to and from a vehicle when entering the Delta View  
17 Center. *See* Declaration of Clinton Johnson, ¶¶ 2-3, 18-19.

18 9. Because the use of Parcel A as a carwash would create a substantial influx of  
19 additional vehicles through the driveway and parking areas for the Delta View Center, I am  
20 concerned for the safety of these vulnerable patients should the carwash be constructed. Due to  
21 the substantial increase in traffic as well as the addition of intersections to the existing driveway,  
22 I believe that Blue Wave's proposed use of the Easement will create hazardous conditions for the  
23 patients and employees of the Delta View Center accessing the facility both in their vehicles and  
24

1 navigating the parking and driveway areas as pedestrians. These conditions will interfere with  
2 the operation of the Delta View Center as a dialysis clinic.

3 10. On March 13, 2025, Blue Wave demanded that a fence and gate be removed  
4 from the property within 30 days. Under the terms of the Easement, an Owner has 30 days to  
5 cure any breach of that agreement. *See* Ex. A, ¶ 9.2. The fence and gate had been erected to  
6 shield the Delta View Center from increased loitering and property damage in the area. Blue  
7 Wave demanded that these be removed by April 12, 2025, in order to commence construction of  
8 the carwash on Parcel A. I am informed and believe that Blue Wave has now removed the fence  
9 and gate and that therefore the commencement of construction and its corresponding detrimental  
10 impact on the Delta View Center visitors is imminent.

11 I declare under penalty of perjury under the laws of the State of California that the  
12 foregoing is true and correct. Executed on JUNE 17 in ROSELIE, California.

13  
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15  
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24  
25



Yochai Kidron

# Exhibit 1

**RECORDING REQUESTED BY:  
AND WHEN RECORDED MAIL TO:**

Pittsburg Leland Group, L.P.  
121 Spear Street, Suite 250  
San Francisco, CA 94105

This is to certify that this is a true and correct copy of the original document recorded on 4/6/2010 at San as No. 10-066990 in the County of Contra Costa Old Republic Title Company By [Signature]

DECLARATION OF EASEMENTS, COVENANTS,  
CONDITIONS AND RESTRICTIONS

THIS DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS (the "Declaration") is made and entered into this 25th day of January, 2010, by Pittsburg Leland Group, L.P., a California limited partnership ("Declarant")

RECITALS

- A. Declarant is the owner of that certain real property situated in the City of Pittsburg, County of Contra Costa, State of California, more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference, which real property is made up of two parcels, legally described on Exhibit "A" and referred to herein individually as "Parcel A" and "Parcel B," and collectively as the "Parcels".
- B. Declarant desires to impose certain easements upon the Parcels, and to establish certain covenants, conditions and restrictions with respect to said Parcels, for the mutual and reciprocal benefit and complement of Parcel A and Parcel B and the present and future owners and occupants thereof, on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the above premises and of the covenants herein contained, the Declarant does hereby declare that the Parcels and all present and future owners and occupants of the Parcels shall be and hereby are subject to the terms, covenants, easements, restrictions and conditions hereinafter set forth in this Declaration, so that said Parcels shall be maintained, kept, sold and used in full compliance with and subject to this Declaration and, in connection therewith, Declarant covenants and agrees as follows:

AGREEMENTS

- 1. Definitions. For purposes hereof:
  - (a) The term "Owner" or "Owners" shall mean the Declarant and any and all successors or assigns of such persons as the owner or owners of fee simple title to all or any portion of the real property covered hereby, whether by sale, assignment, inheritance, operation of law, trustee's sale, foreclosure, or otherwise, but not including the holder of any lien or encumbrance on such real property.

(b) The term "Parcel" or "Parcels" shall mean each separately identified parcel of real property now constituting a part of the real property subjected to this Declaration as described on Exhibit "A", that is, Parcel A and Parcel B, and any future subdivisions thereof.

(c) The term "Permittees" shall mean the tenant(s) or occupant(s) of a Parcel, and the respective employees, agents, contractors, customers, invitees and licensees of (i) the Owner of such Parcel, and/or (ii) such tenant(s) or occupant(s).

(d) The term "Common Area" shall mean those portions of Parcel A and Parcel B that are outside of exterior walls of buildings or other structures from time to time located on the Parcels, and which are either unimproved, or are improved as (without limitation) parking areas, landscaped areas, driveways, roadways, walkways, light standards, curbing, paving, entrances, exits and other similar exterior site improvements.

(e) The term "Site Plan" shall mean that site plan of the Parcels attached hereto as Exhibit "B" and by reference made a part hereof. Except as may be otherwise provided in this Declaration, the Site Plan is for identification purposes only.

(f) The term "Driveway" shall mean that driveway and related driveway improvements, paving, curbing, entrances and exits, in the location on the Parcels as shown on the Site Plan.

## 2. Easements.

2.1 Grant of Easements. Subject to any express conditions, limitations or reservations contained herein, Declarant hereby declares that the Parcels, and all Owners and Permittees of the Parcels, shall be benefited and burdened by the following nonexclusive and perpetual easements which are hereby imposed upon the Parcels and all present and future Owners and Permittees of the Parcels:

(a) A reciprocal easement for reasonable access, ingress and egress over all paved driveways, roadways and walkways as presently or hereafter constructed and constituting a part of the Common Area of Parcel B and the Common Area of Parcel A including, without limitation, the Driveway, so as to provide for the passage of motor vehicles and pedestrians between all portions of the Common Area of such Parcels intended for such purposes, and to and from all abutting streets or rights of way furnishing access to such Parcels;

(b) A reciprocal easement upon, under, over, above and across the Common Area of the Parcels for the discharge, drainage, use, detention and retention of storm water runoff, as determined by Declarant, and to install, maintain, repair and replace storm water collection, retention, detention and

distribution lines, conduits, pipes and other apparatus under and across those portions of the Common Area. The storm water detention areas, if any, and all lines, conduits, pipes and other apparatus for water drainage, and all storage systems necessary in connection therewith, shall be hereinafter called the "Water Detention and Drainage Facilities". The easement granted herein shall include the right of reasonable ingress and egress with respect to the Water Detention and Drainage Facilities as may be required to maintain and operate the same. The Water Detention and Drainage Facilities required for Parcel B shall initially be constructed by Declarant. Once constructed by Declarant, (i) the Water Detention and Drainage Facilities shall not be modified, altered, relocated or otherwise changed, without the prior written consent of all Owners and, (ii) each Owner shall operate and maintain, or cause to be operated and maintained, in good order, condition and repair, the Water Detention and Drainage Facilities located upon its Parcel and make any and all repairs and replacements that may from time to time be required with respect thereto.

(c) A reciprocal easement under and across those parts of the Common Area that are not within any building areas for the installation, maintenance, repair and replacement of water mains, storm drains, sewers, water sprinkler system lines, telephone or electrical conduits or systems, cable, gas mains and other utility facilities necessary for the orderly development and operation of the Common Area and each building from time to time located within the Parcels; provided that (i) the rights granted pursuant to such easements shall at all times be exercised in such a manner as not to interfere materially with the normal operation of a Parcel and the businesses conducted therein, (ii) the exact location of any utilities shall be subject to the approval of the Owner(s) of the burdened Parcel(s), and (iii) except in an emergency, the right of any Owner to enter upon the Parcel of another Owner for the exercise of any right pursuant to such easements shall be conditioned upon providing reasonable prior advance written notice to the other Owner as to the time and manner of entry. All such systems, structures, mains, sewers, conduits, lines and other public utilities shall be installed and maintained below the ground level or surface of the Parcel (except for such parts thereof that cannot and are not intended to be placed below the surface, such as transformers and control panels, which shall be placed in such location as approved by the Owner of the affected Parcel.

(d) An easement from the Owner of Parcel A to the Owner of Parcel B for the installation and maintenance of a concrete wall (the "Wall") in the location as shown on the Site Plan (the "Wall Easement"), as required by the City of Pittsburgh for development approval of Parcel B. The easement granted herein shall include the right of reasonable ingress and egress with respect to the Wall Easement as may be required to install and maintain the Wall. The Wall shall initially be constructed by Declarant. Once constructed by Declarant, the concrete wall shall not be modified, altered, relocated or otherwise changed, without the prior written consent of all Owners and the City of Pittsburgh.

2.2 Indemnification. Each Owner having rights with respect to an easement granted hereunder shall indemnify and hold the Owner whose Parcel is subject to the easement harmless from and against all claims, liabilities and expenses (including reasonable attorneys' fees) relating to accidents, injuries, loss, or damage of or to any person or property arising from the negligent, intentional or willful acts or omissions of such Owner, its contractors, employees, agents, or others acting on behalf of such Owner.

2.3 Access Opening. The opening(s) and access point(s) contemplated between the Parcels for use of the Driveway is/are shown on the Site Plan and such opening(s) and access point(s) between the Parcels for use of the Driveway, as contemplated pursuant to paragraph 2.1(a) above, are hereinafter called the "Access Openings." The Access Openings shall in no event be blocked, closed, altered, changed or removed and shall at all times remain in place as shown on the Site Plan. There shall be maintained between the Access Openings a smooth and level grade transition to allow the use of the Driveway for pedestrian and vehicular ingress and egress as set forth in paragraph 2.1 above. Except with respect to the Access Openings, each Owner shall be permitted to maintain a fence, curbing, landscaping or other improvements along the boundary line of its Parcel.

2.4 Reasonable Use of Easements.

(a) The easements herein above granted shall be used and enjoyed by each Owner and its Permittees in such a manner so as not to unreasonably interfere with, obstruct or delay the conduct and operations of the business of any other Owner or its Permittees at any time conducted on its Parcel, including, without limitation, public access to and from said business, and the receipt or delivery of merchandise in connection therewith.

(b) Once the Water Detention and Drainage Facilities are installed pursuant to the easements granted in paragraph 2.1(b) hereof, and/or utility lines, systems and equipment are installed pursuant to the easements granted in paragraph 2.1(c) hereof, no permanent building, structures, trees or other improvements inconsistent with the use and enjoyment of such easements (excluding improvements typically found in common areas of commercial centers) shall be placed over or permitted to encroach upon such water detention, drainage and utility installations. The Owner of the Parcel served by such installations shall not unreasonably withhold its consent to the reasonable relocation of such installations requested by the Owner of a Parcel where such installations are located, at such requesting Owner's sole cost and expense, so long as water detention and drainage services or utility services, as applicable, to the other Owner's Parcel are not unreasonably interrupted and the remaining provisions of this paragraph 2.4 are complied with.

(c) Once commenced, any construction undertaken in reliance upon an easement granted herein shall be diligently prosecuted to completion, so as to minimize any interference with the business of any other Owner and its Permittees. Except in cases of emergency, the right of any Owner to enter upon a Parcel of another Owner for the exercise of any right pursuant to the easements set forth, or to prosecute work on such Owner's own Parcel if the same interferes with utility or drainage easements or easements of ingress, egress or access to or in favor of another Owner's Parcel, shall be undertaken only in such a manner so as to minimize any interference with the business of the other Owner and its Permittees. In such case, no affirmative monetary obligation shall be imposed upon the other Owner, and the Owner undertaking such work shall with due diligence repair at its sole cost and expense any and all damage caused by such work and restore the affected portion of the Parcel upon which such work is performed to a condition which is equal to or better than the condition which existed prior to the commencement of such work. In addition, the Owner undertaking such work shall pay all costs and expenses associated therewith and shall indemnify and hold harmless the other Owner(s) and its Permittees from all damages, losses, liens or claims attributable to the performance of such work.

### 3. Maintenance.

3.1 General. Until such time as improvements are constructed on a Parcel, the Owner thereof shall maintain the same in a clean and neat condition and shall take such measures as are necessary to control grass, weeds, blowing dust, dirt, litter or debris.

3.2 Buildings and Appurtenances Thereto. Each Owner covenants to keep and maintain, at its sole cost and expense, the building(s) located from time to time on its respective Parcel in good order, condition and repair. Once constructed, in the event of any damage to or destruction of a building on any Parcel, the Owner of such Parcel shall, at its sole cost and expense, with due diligence either (a) repair, restore and rebuild such building to its condition prior to such damage or destruction (or with such changes as shall not conflict with this Declaration), or (b) demolish and remove all portions of such damaged or destroyed building then remaining, including the debris resulting therefrom, and otherwise clean and restore the area affected by such casualty to a level, graded condition. Nothing contained in subparagraph 3.2(b) shall be deemed to allow an Owner to avoid a more stringent obligation for repair, restoration and rebuilding contained in a lease or other written agreement between an Owner and such Owner's Permittee. Each Parcel shall comply with applicable governmental parking ratio requirements without taking into account the parking provided on the other Owner's Parcel, such that each Parcel shall be self sufficient for vehicular parking.

3.3 Common Area. Each Owner of a Parcel covenants at all times during the term hereof to operate and maintain or cause to be operated and maintained at its expense all Common Area located on its Parcel in good order, condition

and repair. Following the construction of improvements thereon, maintenance of Common Area shall include, without limitation, maintaining and repairing all sidewalks and the surface of the parking and roadway areas, removing all papers, debris and other refuse from and periodically sweeping all parking and road areas to the extent necessary to maintain the same in a clean, safe and orderly condition, maintaining appropriate lighting fixtures for the parking areas and roadways, maintaining marking, directional signs, lines and striping as needed, maintaining landscaping, maintaining signage in good condition and repair, and performing any and all such other duties as are necessary to maintain such Common Area in a clean, safe and orderly condition. Except as otherwise expressly provided in this Declaration, once constructed, in the event of any damage to or destruction of all or a portion of the Common Area on any Parcel, the Owner of such Parcel shall, at its sole cost and expense, with due diligence repair, restore and rebuild such Common Area to its condition prior to such damage or destruction (or with such changes as shall not conflict with this Declaration). Each Owner reserves the right to alter, modify, reconfigure, relocate and/or remove the Common Areas or building areas on its Parcel, subject to the following conditions: (i) the reciprocal easements between the Parcels pursuant to paragraph 2.1(a) shall not be closed or materially impaired; (ii) the Driveway, and ingress and egress thereto, and to and from the Parcels and adjacent streets and roads, shall not be so altered, modified, relocated, blocked and/or removed without the express written consent of all Owners; and (iii) the same shall not violate any of the provisions and easements granted in paragraph 2.

3.4 Utilities. Each Owner shall at all times during the term hereof construct, operate and maintain or cause to be constructed, operated and maintained, in good order, condition and repair, at its sole expense, any utility or other installations serving the Parcel of such Owner and from time to time existing on the Parcel of another Owner pursuant to an easement described herein.

3.5 Outside Lighting. To the extent a Parcel has exterior lighting, that Parcel shall be lit from dusk to 10:00 p.m. every day, at the cost and expense of the Owner of the Parcel upon which the exterior lighting is located. Notwithstanding the foregoing, the Parking Lot Lights shown on the Site Plan adjacent to the Driveway on Parcel A (the "Lights") shall be electrified by service from Parcel B and maintained by the Parcel B Owner until such time as Parcel A is developed. Upon development of Parcel A, the Lights shall be electrified by service from Parcel A and maintained by the Parcel A Owner. The location of the Lights shall not be altered without the express written consent of all Owners.

3.6 Wall. The Wall within the Wall Easement Area shall be maintained by the Parcel B Owner until such time as Parcel A is developed. Upon development of Parcel A, the Wall shall be maintained by the Parcel A Owner.

4. Construction of Improvements. Every building (including its appurtenant Common Area improvements), now or in the future constructed on the Parcels, shall be constructed, operated and maintained so that the same is in compliance

with all applicable governmental requirements. The Driveway shall be constructed and completed by the Owner of Parcel B at the same time as such Owner develops Parcel B.

5. Restrictions.

5.1 General. Each Parcel shall be used for lawful purposes in conformance with all restrictions imposed by all applicable governmental laws, ordinances, codes, and regulations, and no use or operation shall be made, conducted or permitted on or with respect to all or any portion of a Parcel which is illegal. In addition to the foregoing, throughout the term of this Declaration, it is expressly agreed that neither all nor any portion of the Parcels shall be used, for purposes of a cocktail lounge, bar, disco, bowling alley, pool hall, billiard parlor, skating rink, roller rink, amusement arcade, adult book store, adult theatre, adult amusement facility, any facility selling or displaying pornographic materials or having such displays, auction house, flea market, sleeping quarters or lodging (except in connection with nocturnal dialysis), the outdoor housing or raising of animals, the sale, leasing or storage of automobiles, recreational vehicles, boats or other vehicles, any industrial use, an assembly hall, off track betting establishment, bingo parlor, any use which creates a nuisance. Notwithstanding anything contained in this Declaration to the contrary, Parcel B may be used for the operation of an outpatient renal dialysis clinic, renal dialysis home training, aphaeresis services and similar blood separation and cell collection procedures, general medical offices, clinical laboratory, including all incidental, related, and necessary elements and functions of other recognized dialysis disciplines which may be necessary or desirable to render a complete program of treatment to patients.

5.2 Additional Parcel A Restrictions. Throughout the term of this Declaration, it is expressly agreed that neither all nor any portion of Parcel A shall be used, directly or indirectly, for any one or more of the following purposes: a business that derives more than ten percent (10%) of its revenues from renal dialysis, renal dialysis home training, any aphaeresis service(s) or similar blood separation or cell collection procedures, except services involving the collection of blood or blood components from volunteer donors. Nor shall the Owner or Occupants of Parcel A display or permit to be displayed upon Parcel A any advertisement for any such business except if such advertisement is for that business operating on Parcel B. Without otherwise limiting the foregoing, this Paragraph 5.2 shall only be effective during the term of that certain lease for Parcel B entered into by and between Total Renal Care, Inc. and Declarant, dated April 15, 2009 as may be amended, extended, renewed and replaced from time to time (the "TRC Lease"). Upon expiration or earlier termination of the TRC Lease this Section 5.2 shall automatically expire.

6. Insurance. Throughout the term of this Declaration, each Owner shall procure and maintain general and/or comprehensive public liability and property damage insurance against claims for personal injury (including contractual liability arising under the indemnity contained in paragraph 2.2 above), death, or property damage occurring upon such Owner's Parcel, with single limit coverage of not

less than an aggregate of Two Million Dollars (\$2,000,000.00) including umbrella coverage, if any, and naming each other Owner (provided the Owner obtaining such insurance has been supplied with the name of such other Owner in the event of a change thereof) as additional insureds.

7. Taxes and Assessments. Each Owner shall pay all taxes, assessments, or charges of any type levied or made by any governmental body or agency with respect to its Parcel.
8. No Rights in Public; No Implied Easements. Nothing contained herein shall be construed as creating any rights in the general public or as dedicating for public use any portion of Parcel A or Parcel B. No easements, except (i) those expressly set forth in paragraph 2, and/or (ii) an easement over Parcel A so as to enable the construction of the Driveway and other improvements required for the initial development of Parcel B, shall be implied by this Declaration; in that regard, and without limiting the foregoing, no easements for parking or signage are granted or implied.
9. Remedies and Enforcement.
  - 9.1 All Legal and Equitable Remedies Available. In the event of a breach or threatened breach by any Owner or its Permittees of any of the terms, covenants, restrictions or conditions hereof, the other Owner(s) shall be entitled forthwith to full and adequate relief by injunction and/or all such other available legal and equitable remedies from the consequences of such breach, including payment of any amounts due and/or specific performance.
  - 9.2 Self-Help. In addition to all other remedies available at law or in equity, upon the failure of a defaulting Owner to cure a breach of this Declaration within thirty (30) days following written notice thereof by an Owner (unless, with respect to any such breach the nature of which cannot reasonably be cured within such 30-day period, the defaulting Owner commences such cure within such 30-day period and thereafter diligently prosecutes such cure to completion), any Owner shall have the right to perform such obligation contained in this Declaration on behalf of such defaulting Owner and be reimbursed by such defaulting Owner upon demand for the reasonable costs thereof together with interest at the prime rate charged from time to time by Wells Fargo Bank (its successors or assigns), plus two percent (2%) (not to exceed the maximum rate of interest allowed by law). Notwithstanding the foregoing, in the event of (i) an emergency, (ii) blockage or material impairment of the easement rights, and/or (iii) the unauthorized parking of vehicles on Parcel B, an Owner may immediately cure the same and be reimbursed by the other Owner upon demand for the reasonable cost thereof together with interest at the prime rate, plus two percent (2%), as above described.
  - 9.3 Lien Rights. Any claim for reimbursement, including interest as aforesaid, and all costs and expenses including reasonable attorneys' fees awarded to any Owner in enforcing any payment in any suit or proceeding under this Declaration shall be assessed against the defaulting Owner in favor of the prevailing party

and shall constitute a lien (the "Assessment Lien") against the Parcel of the defaulting Owner until paid, effective upon the recording of a notice of lien with respect thereto in the Office of the County Recorder of Contra Costa County, California; provided, however, that any such Assessment Lien shall be subject and subordinate to (i) liens for taxes and other public charges which by applicable law are expressly made superior, (ii) all liens recorded in the Office of the County Recorder of Contra Costa County, California prior to the date of recordation of said notice of lien, and (iii) all leases entered into, whether or not recorded, prior to the date of recordation of said notice of lien. All liens recorded subsequent to the recordation of the notice of lien described herein shall be junior and subordinate to the Assessment Lien. Upon the timely curing by the defaulting Owner of any default for which a notice of lien was recorded, the party recording same shall record an appropriate release of such notice of lien and Assessment Lien.

9.4 Remedies Cumulative. The remedies specified herein shall be cumulative and in addition to all other remedies permitted at law or in equity.

9.5 No Termination For Breach. Notwithstanding the foregoing to the contrary, no breach hereunder shall entitle any Owner to cancel, rescind, or otherwise terminate this Declaration. No breach hereunder shall defeat or render invalid the lien of any mortgage or deed of trust upon any Parcel made in good faith for value, but the easements, covenants, conditions and restrictions hereof shall be binding upon and effective against any Owner of such Parcel covered hereby whose title thereto is acquired by foreclosure, trustee's sale, or otherwise.

9.6 Irreparable Harm. In the event of a violation or threat thereof of any of the provisions of paragraphs 2 and/or 5 of this Declaration, each Owner agrees that such violation or threat thereof shall cause the non-defaulting Owner and/or its Permittees to suffer irreparable harm and such non-defaulting Owner and its Permittees shall have no adequate remedy at law. As a result, in the event of a violation or threat thereof of any of the provisions of paragraphs 2 and/or 5 of this Declaration, the non-defaulting Owner, in addition to all remedies available at law or otherwise under this Declaration, shall be entitled to injunctive or other equitable relief to enjoin a violation or threat thereof of paragraphs 2 and/or 5 of this Declaration.

10. Term. The easements, covenants, conditions and restrictions contained in this Declaration shall be effective commencing on the date of recordation of this Declaration in the office of the Contra Costa County Recorder and shall remain in full force and effect thereafter in perpetuity, unless this Declaration is modified, amended, canceled or terminated by the written consent of all then record Owners of Parcel A and Parcel B in accordance with paragraph 11.2 hereof.

11. Miscellaneous.

11.1 Attorneys' Fees. In the event a party institutes any legal action or proceeding for the enforcement of any right or obligation herein contained, the

prevailing party after a final adjudication shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

11.2 Amendment.

(a) Declarant agrees that the provisions of this Declaration may be modified or amended, in whole or in part, or terminated, only by the written consent of all record Owners of Parcel A and Parcel B, evidenced by a document that has been fully executed and acknowledged by all such record Owners and recorded in the official records of the County Recorder of Contra Costa County, California.

(b) Notwithstanding subparagraph 11.2(a) above to the contrary, no termination of this Declaration, and no modification or amendment of this Declaration shall be made nor shall the same be effective unless the same has been expressly consented to in writing.

11.3 Consents. Wherever in this Declaration the consent or approval of an Owner is required, unless otherwise expressly provided herein, such consent or approval shall not be unreasonably withheld or delayed. Any request for consent or approval shall: (a) be in writing; (b) specify the section hereof which requires that such notice be given or that such consent or approval be obtained; and (c) be accompanied by such background data as is reasonably necessary to make an informed decision thereon. The consent of an Owner under this Declaration, to be effective, must be given, denied or conditioned expressly and in writing.

11.4 No Waiver. No waiver of any default of any obligation by any party hereto shall be implied from any omission by the other party to take any action with respect to such default.

11.5 No Agency. Nothing in this Declaration shall be deemed or construed by either party or by any third person to create the relationship of principal and agent or of limited or general partners or of joint venturers or of any other association between the parties.

11.6 Covenants to Run with Land. It is intended that each of the easements, covenants, conditions, restrictions, rights and obligations set forth herein shall run with the land and create equitable servitudes in favor of the real property benefited thereby, shall bind every person having any fee, leasehold or other interest therein and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives.

11.7 Grantee's Acceptance. The grantee of any Parcel or any portion thereof, by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof, whether from an original party or from a subsequent owner of such Parcel, shall accept such deed or contract upon and subject to each and all of the easements, covenants, conditions, restrictions and obligations contained herein. By such acceptance, any such grantee shall for

himself and his successors, assigns, heirs, and personal representatives, covenant, consent, and agree to and with the other party, to keep, observe, comply with, and perform the obligations and agreements set forth herein with respect to the property so acquired by such grantee.

11.8 Separability. Each provision of this Declaration and the application thereof to Parcel A and Parcel B are hereby declared to be independent of and severable from the remainder of this Declaration. If any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Declaration. In the event the validity or enforceability of any provision of this Declaration is held to be dependent upon the existence of a specific legal description, the parties agree to promptly cause such legal description to be prepared. Ownership of both Parcels by the same person or entity shall not terminate this Declaration nor in any manner affect or impair the validity or enforceability of this Declaration.

11.9 Time of Essence. Time is of the essence of this Declaration.

11.10 Entire Agreement. This Declaration contains the complete understanding and agreement of the parties hereto with respect to all matters referred to herein, and all prior representations, negotiations, and understandings are superseded hereby.

11.11 Notices. Notices or other communication hereunder shall be in writing and shall be sent certified or registered mail, return receipt requested, or by other national overnight courier company, or personal delivery. Notice shall be deemed given upon receipt or refusal to accept delivery. Each party may change from time to time their respective address for notice hereunder by like notice to the other party. The notice address of Declarant is as follows:

Declarant:                   Pittsburg Leland Group, L.P.  
                                  Attn: Property Management  
                                  121 Spear Street, Suite 250  
                                  San Francisco, CA 94105

11.12 Governing Law. The laws of the State in which the Parcels are located shall govern the interpretation, validity, performance, and enforcement of this Declaration.

11.13 Estoppel Certificates. Each Owner, within twenty (20) day of its receipt of a written request from the other Owner(s), shall from time to time provide the requesting Owner, a certificate binding upon such Owner stating: (a) to the best of such Owner's knowledge, whether any party to this Declaration is in default or violation of this Declaration and if so identifying such default or violation; and (b) that this Declaration is in full force and effect and identifying any amendments to the Declaration as of the date of such certificate.

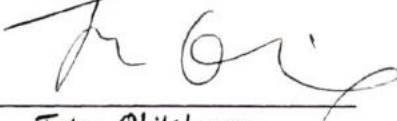
11.14 Bankruptcy. In the event of any bankruptcy affecting any Owner or occupant of any Parcel, the parties agree that this Declaration shall, to the maximum extent permitted by law, be considered an agreement that runs with the land and that is not rejectable, in whole or in part, by the bankrupt person or entity.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date first written above.

Declarant:

Pittsburg Leland Group, L.P.,  
a California limited partnership

By: VPI, Inc., a California corporation  
its general partner

By:   
Name: John Glikberg  
Its: Vice President

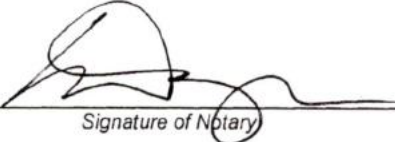
**CERTIFICATE OF ACKNOWLEDGMENT**

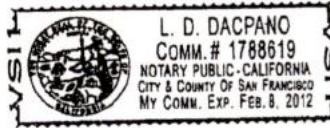
STATE OF CALIFORNIA           §  
  §  
COUNTY OF SAN FRANCISCO §

On Feb. 19, 2010 before me, L. D. Dacpano, Notary Public, personally appeared John Glikberg, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

  
\_\_\_\_\_  
Signature of Notary



(For notary seal or stamp)

EXHIBIT "A"

Legal Description

Parcel A

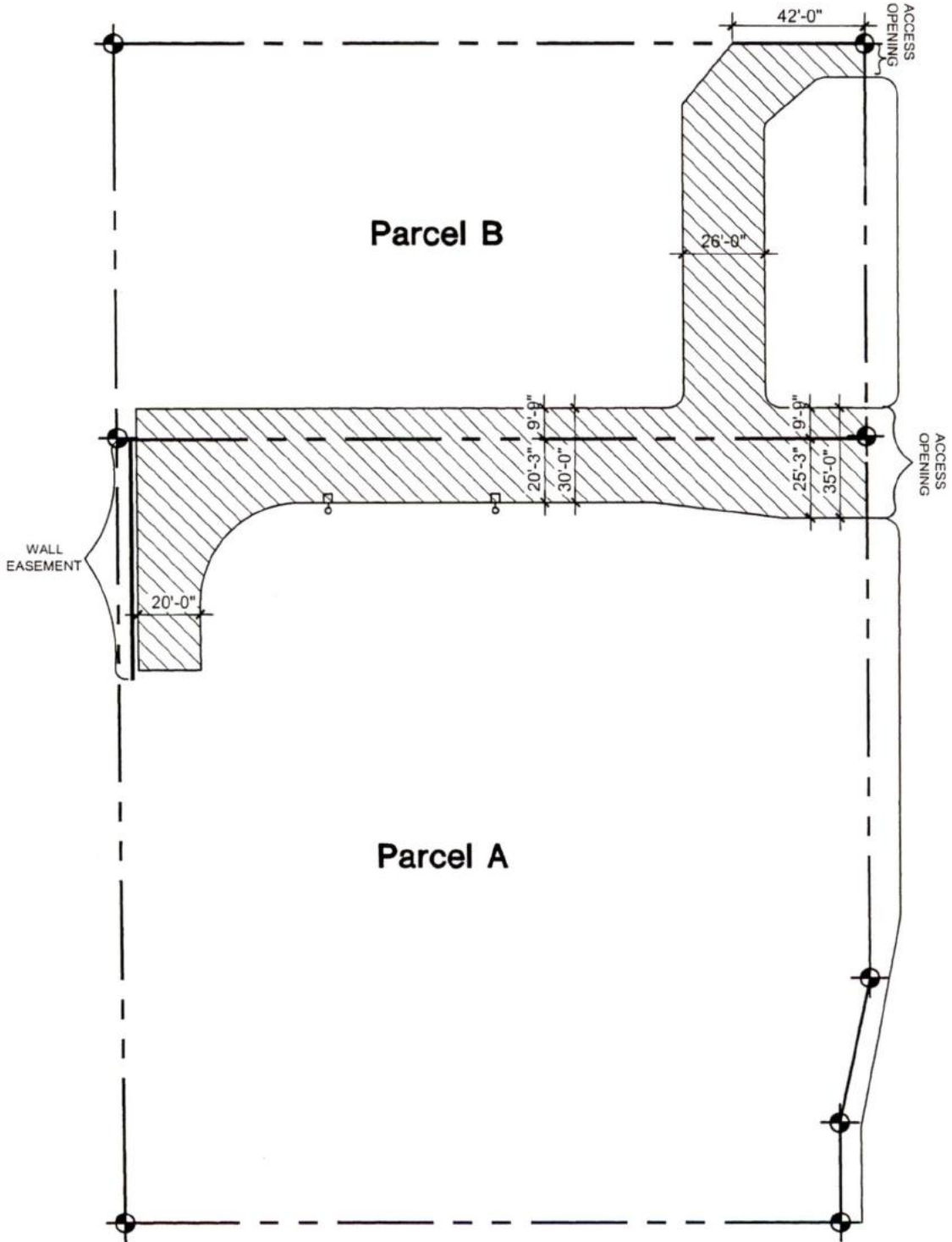
All that real property situate in the City of Pittsburg, County of Contra Costa, State of California, being portions of PARCEL B as shown on that certain Parcel Map M.S. 679-01 filed August 28, 2002, in Book 185 of Parcel Maps, at Pages 1 and 2, in the Office of the County Recorder of Contra Costa County, more particularly described as follows:

COMMENCING at the Northwesterly corner of said PARCEL B; thence along the Northerly line of said PARCEL B, South 72°16'57" East, 125.00 feet to the POINT OF BEGINNING; thence continuing along said Northerly line, South 72°16'57" East, 171.77 feet to the most Westerly corner of that parcel shown as EAST LELAND ROAD DEDICATION on said Parcel Map; thence along the exterior boundary of last said parcel, South 60°03'14" East, 47.21 feet and South 72°16'57" East, 31.01 feet to the Easterly line of said PARCEL B; thence along last said line, South 17°43'03" West, 230.00 feet to the Southerly line of said PARCEL B; thence along last said line; NORTH 72°16'57" West, 248.92 feet to a point which bears South 17°43'03" West from said Point of Beginning; thence North 17°43'03" East, 240.00 feet to the Point of Beginning.

Parcel B

All that real property situate in the City of Pittsburg, County of Contra Costa, State of California, being portions of PARCEL B as shown on that certain Parcel Map M.S. 679-01 filed August 28, 2002, in Book 185 of Parcel Maps, at Pages 1 and 2, in the Office of the County Recorder of Contra Costa County, more particularly described as follows:

BEGINNING at the Northwesterly corner of said PARCEL B; thence along the Northerly line of said PARCEL B, South 72°16'57" East, 125.00 feet; thence South 17°43'03" West, 240.00 feet to the Southerly line of said PARCEL B; thence along last said line, North 72°16'57" West, 125.00 feet to the Westerly line of said PARCEL B; thence along last said line, North 17°43'03" East, 240.00 feet to the Point of Beginning.



**EAST LELAND ROAD**

**Parcel B**


**Parcel A**

WALL EASEMENT

ACCESS OPENING

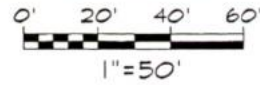
ACCESS OPENING

**LEGEND**

PROPERTY LINE 

DRIVEWAY 

PARKING LOT LIGHT 



**EAST LELAND ROAD  
PITTSBURG, CALIFORNIA**

**EXHIBIT 'B'**

# Exhibit 2



# City of Pittsburg

**Community and Economic Development Department – Planning Division**  
65 Civic Avenue, Pittsburg, CA 94565 | Tel: (925) 252-4920 | Fax: (925) 252-4814

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Date: March 27, 2023

SUBJECT: CC Ordinance 23-1506  
CC Resolution 23-14236 and 23-14237

Dear Applicant,

Enclosed is a copy of the Ordinance and Resolutions adopted by the City Council. A copy of our Standard Conditions of Development is also included. Please read the enclosed documents and retain them for your files. All Conditions of Approval shall be incorporated into subsequent plan submittals and constructions documents, where appropriate.

The enclosed Resolution is valid for a limited period of time as specified in the Resolution. Please make note of the applicable expiration date and plan your construction timeline accordingly to avoid the loss of your entitlements.

If you have any questions about the enclosed resolution, please contact the Project Planner, Kelsey Gunter (925) 252-4824 or the Planning Division at the number listed above.

Sincerely,

John L. Funderburg III, M.S., AICP  
Assistant Director of Planning

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Ordinance Rezoning a 1.36-Acre Site )  
Located at 1160 E. Leland Road from )  
CC (Community Commercial) to CC-O )                   ORDINANCE NO. 23-1506  
(Community Commercial with Limited )  
Overlay) District, for "Blue Wave Car )  
Wash, AP-21-1562 (RZ, UP, DR)." )

The City Council of the City of Pittsburg DOES ORDAIN as follows:

WHEREAS, on April 2, 2021, Daniel A. Moradel with CEI Engineering Associates, Inc., filed Planning Application No. 21-1562, requesting approval of 1) Zoning Map Amendment from CC (Community Commercial) to establish a Limited Overlay District (CC-O) to conditionally permit Automobile Washing, 2) a Use Permit to establish an automatic Automobile Washing facility, and 3) a Design Review application to construct one 3,600 square foot commercial, self-service car wash building. The project site is located at 1160 E. Leland Road, Assessor's Parcel Number (APN): 088-230-028; and

WHEREAS, Pittsburg Municipal Code (PMC) section 18.16.020 identifies the Planning Commission as the advisory body to the City Council on proposed Zoning Amendments; and

WHEREAS, on December 13, 2022, after conducting a duly noticed public hearing, the Planning Commission adopted Resolution No. 10213, recommending City Council adoption of the proposed amendment as presented; and

WHEREAS, in order to approve a Zoning Amendment, the City Council must find (in accordance with PMC sections 18.16.020 and 18.48.030) that:

1. the amendments are consistent with the objectives, policies, general land uses and programs in the General Plan;
2. the land use regulation is compatible with uses and regulations of the land use district for which it is proposed;
3. there is a community need for the change proposed; and
4. the change will be in conformity with the public convenience, general welfare, and good zoning practice; and

WHEREAS, on or prior to January 27, 2023, notice of the February 6, 2023 Public Hearing was published in the East County Times; was posted at City Hall and on the "Public Notices" section of the City's website; was delivered for posting at the Pittsburg Library; and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the project site, to local service agencies expected to provide services to the facility, and to individuals who had previously filed written request for such notice, in accordance with PMC section 18.14.020 and

Government Code sections 65090 and 65091. In addition, a copy of the notice was posted on [www.nextdoor.com](http://www.nextdoor.com) ("Nextdoor") and was sent directly to all subscribed residents in the "Diamond Hillside", "Los Medanos", "Mosaic Apartments" and the "Stanford Place" Neighborhoods; and

WHEREAS, on February 6, 2023, the City Council held a public hearing on Planning Application No. 21-1562, at which time oral and/or written testimony was considered.

### Section 1. Findings

A. Based on the Planning Commission Staff Report entitled, "Adoption of a City Council Resolution Adopting an Initial Study Mitigated Negative Declaration (ISMND) and Mitigation Monitoring and Reporting Program (MMRP), Introduction and Waive First Reading of an Ordinance Amending the Zoning Map to Establish a Limited Overlay District, and 3) Adoption of a Resolution Approving Use Permit and Design Review Applications for Blue Wave Car Wash, Located at 1160 E. Leland Road, Pittsburg, CA, 94565, AP-21-1562 (RZ, UP, DR)," and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the meeting, the City Council finds that:

1. All recitals above are true and correct and are incorporated herein by reference.
2. The proposed limited overlay district and overlay plan is consistent with and conforms to the General Plan. The project site has a land use designation of 'Community Commercial'. This land use designation is intended to "provide sites for retail shopping areas containing a wide variety of businesses, including retail stores, eating and drinking establishments, commercial recreation, service stations, automobile sales and repair services, financial, business and personal services, motels, education and social services." The proposed overlay district would be consistent with the intent of the Community Commercial land use designation in that the proposed allowable uses within the overlay would be very similar to the existing uses within the Community Commercial Designation, such as auto sales and auto repair uses, which are among the type of businesses envisioned within this land use designation.

The requested Zoning Map Amendment is consistent with the objectives, policies, general land uses, and programs specified in the General Plan, in that:

- A. It will facilitate development on an infill site, thereby helping the City maintain a compact urban form (Goal 2-G-1).
  - B. It will incentive the use of vacant infill land and revitalize an underutilized site (Goal 2-G-6).
  - C. It will allow development in an area where public facilities and infrastructure are already available (Policy 3-P-1).
3. The requested Zoning Map Amendment would be consistent with the uses authorized in, and the regulations prescribed for, the land use district for which it is

proposed, in that other automobile uses are conditionally permitted within the Community Commercial Zoning Designation. Provided the additional automotive uses that are conditionally permitted within the CC District, and the prevalent similarities between the Automobile Washing and the Service Station uses, as defined by the PMC, the proposed Zoning Map Amendment is consistent with the Municipal Code's intended use of properties designated as Community Commercial within the City of Pittsburg. The proposed Limited Overlay for the project site would require that all allowed uses and development standards remain the same as those of the base district (Community Commercial), except with the addition of Automobile Washing as a conditionally permitted use, subject to an approved Use Permit application.

4. The proposed development would help achieve the General Plan's Economic Development Objectives (General Plan, Section 6.1) by expanding the retail sector and encouraging employment growth as it improves the jobs/housing balance. The project would create an additional employment opportunity within the City and generate property and sales taxes to help contribute to the City's revenue stream. As conditioned, the proposed project will both provide a service needed by the community and conform with our City-adopted Design Guidelines.
5. The requested Zoning Map Amendment would facilitate the use of a vacant parcel and help the City achieve its Economic Development Objectives, by enhancing the assessed value of the land and creating additional employment opportunities. While there may be other Automobile Washing facilities in the City, very few provide the opportunity for vacuum cleaning services, a need shared among those living within multi-family development projects without personal use driveways for such activity. Approval of this amendment would assist in facilitating the development of an Automobile Washing facility, a public convenience development project for the area on an underutilized parcel. The requested Zoning Map Amendment will be in conformity with the public convenience, general welfare, and good zoning practice, in that it will facilitate improvement of a blighted area, which could help eradicate existing problems that come with blighted sites, such as illegal dumping and loitering.

## Section 2. CEQA

The proposed project is subject to the California Environmental Quality Act (CEQA), and the CEQA Guidelines (Public Resources Code section 21080). Pursuant to the provisions of the CEQA Guidelines, an Initial Study was prepared for the project. Based on the analysis in the Study, it was determined that potentially significant effects of the project could be lessened through specified mitigations, and subsequently, a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program were prepared.

On August 12, 2022, a Notice of Intent to Adopt a Mitigated Negative Declaration (NOI) was distributed to the public for a 30-day review, in accordance with CEQA Guidelines section 15105(b). Public distribution of the NOI consisted of delivery to the County Clerk's Office, posting on the City's website, and direct mailing to all interested parties and owners/occupants of the properties directly contiguous with the project, in accordance with CEQA Guidelines section 15072. No comments were received within the public comment period.

Section 3. Rezoning

Based on the findings set forth above, the City Council hereby amends the Zoning Map, as referenced in Pittsburg Municipal Code, Title 18 (Zoning Ordinance) Section 18.04.020, to change the zoning for a 1.36-acre site located at 1160 E. Leland Road, from CC District to CC-O (Community Commercial with Limited Overlay) District with an accompanying Overlay Regulations, as shown in Exhibit A and B of this Ordinance.

Section 4. Publication

The ordinance shall be posted and published in accordance with the California Government Code.

The foregoing Ordinance was introduced at a meeting of the City Council of the City of Pittsburg held on February 6, 2023, and was adopted and ordered published at a meeting of the City Council held on February 21, 2023 by the following vote:

AYES: Adams, Banales, Killings, Scales-Preston

NOES: None

ABSTAINED: None

ABSENT: Lopez

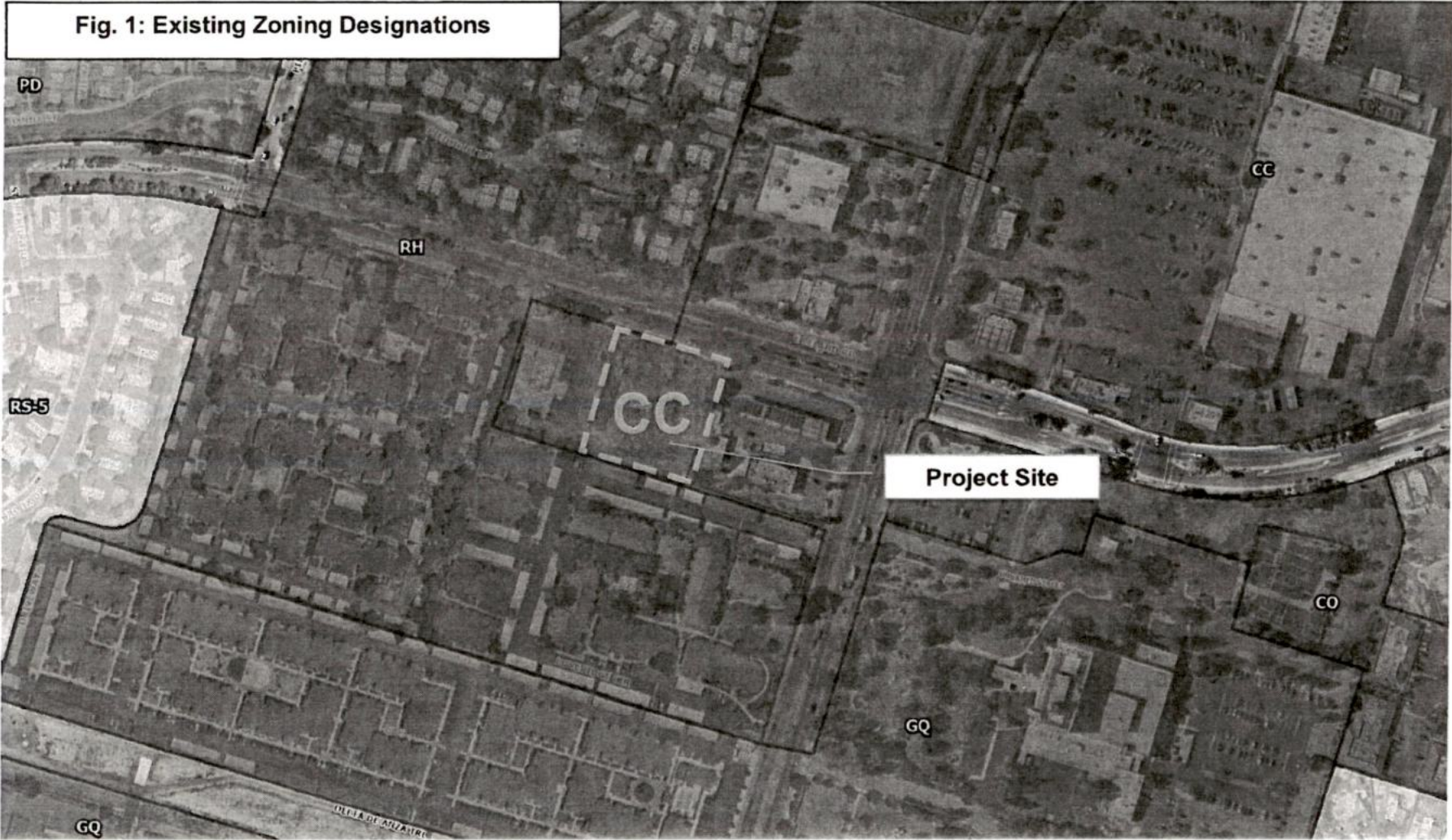
  
Shanelle Scales-Preston, Mayor

ATTEST:

  
\_\_\_\_\_  
Alice E. Evenson, City Clerk

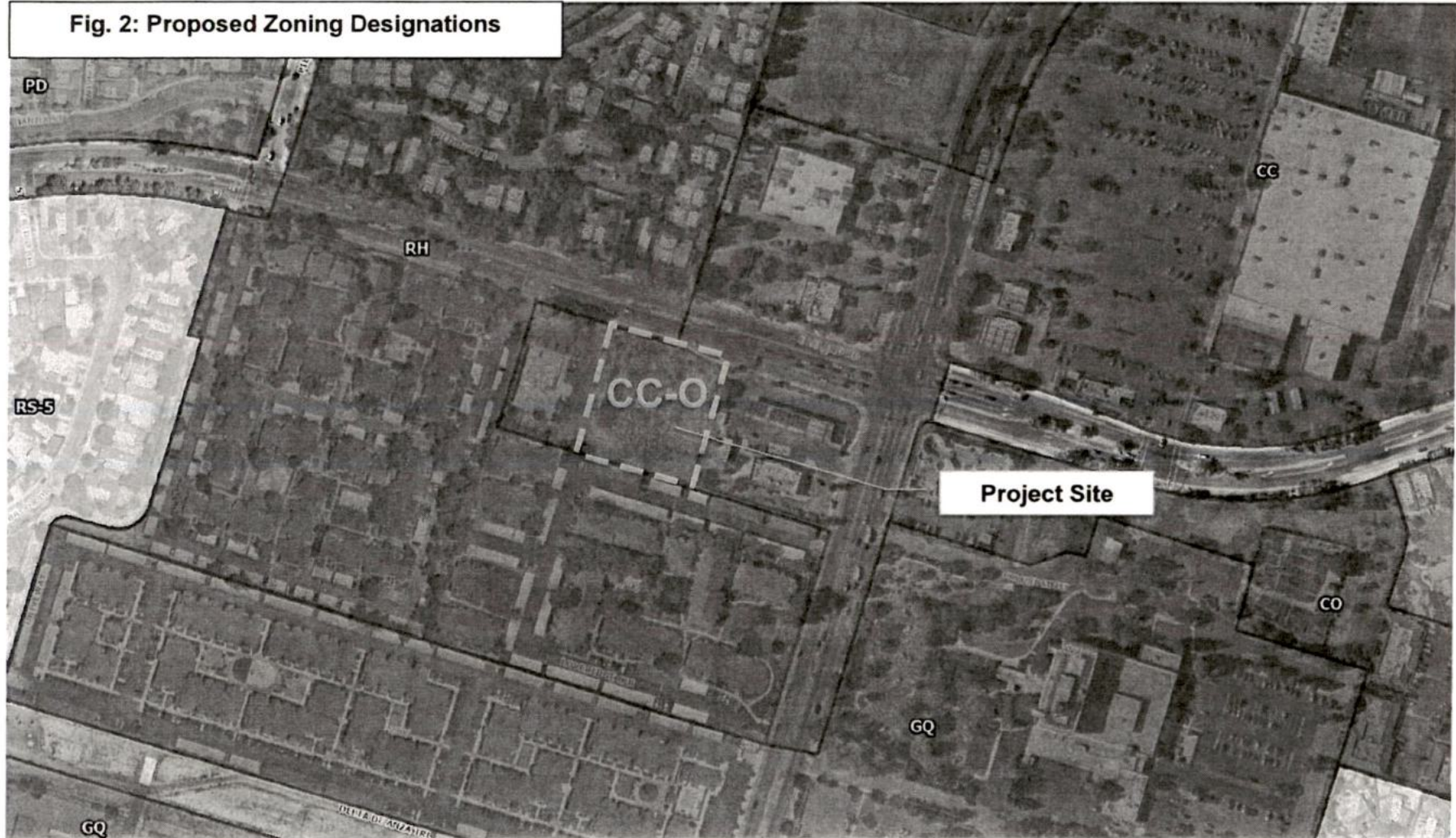
Zoning Map Amendment - Proposed Overlay for AP-21-1562  
(RZ, UP, DR) Blue Wave Car Wash

Fig. 1: Existing Zoning Designations



Zoning Map Amendment - Proposed Overlay for AP-21-1562  
(RZ, UP, DR) Blue Wave Car Wash

Fig. 2: Proposed Zoning Designations



**Overlay Land Use Regulations for AP-21-1562 (RZ, UP, DR) Blue Wave Car Wash Zoning Map Amendment**

**CC-O Regulations:**

**Land Use Regulations:**

All allowed uses and development standards shall be the same as those of the base Community Commercial (CC) District, with the addition of Automobile Washing conditionally permitted subject to an approved Use Permit Application, as shown in the table below.

P = Permitted  
 U = Use Permit, Planning Commission  
 T = Temporary Activity Permit  
 L = Limited (See Additional Use Regulations)  
 Z = Use Permit, Zoning Administrator  
 - = Not Permitted

	CO	CN	CC	CC-O	CS	CSD	CW	CP
Automobile and recreational vehicle repair, major	-	-	-		U	U	-	-
Automobile rental	L-14	L-14	L-14		P	P	L-14	-
Automobile repair, limited	-	-	U		P	P	-	-
Automobile sales	-	U	U		U	U	-	-
Automobile washing	-	-	-	U	U	U	-	-
Recreational vehicle and mobile home sales	-	-	L-140		U	-	-	-
Service station	-	U	U		U	U	-	-
Vehicle storage	-	-	-		U	-	-	-

**Landscaping Regulations:**

All project site landscaping shall follow the Pittsburg Municipal Code Section applicable to the project's base Zoning District of Community Commercial. Landscaping regulations shall also adhere to all Responsible Agency's regulations, as specified in the Development's MMRP and Conditions of Approval. All landscaping shall be kept up in a healthy, neat, and weed-free, condition. The proposed project site is adjacent to a Residentially Zoned parcel. So long as the Residential Zone and/or Residential Use of the

**Overlay Land Use Regulations for AP-21-1562 (RZ, UP, DR)  
Blue Wave Car Wash Zoning Map Amendment**

adjacent parcel remains, the landscaping along the project site's southern border shall be maintained in a dense manner – offering heightened trees for plantings and dense vegetation, so as to mitigate against any visual or audible impacts to adjacent properties. Additional regulations regarding site landscaping shall be subject to review and modification by the Zoning Administrator.

**Screening Regulations:**

Development shall construct and maintain an 8' masonry wall between the project site and the adjacent Residential Development. It is the responsibility of the Developer to inform the adjacent Residential Development's Property Owner and Manager of the proposed construction of the masonry wall, which will be erected within the 10' required project operation setback. Additional screening regulations shall follow the City of Pittsburg's Development Review Design Guidelines for Screening and the City of Pittsburg's Municipal Code requirements for Screening and Fencing on Site. All final screening materials and finishes shall be subject to review and approval by the Zoning Administrator.

**C.3 Regulations:**

The Project shall adhere to all C.3 regulations prescribed for the project site and maintain compliance with any measures imposed by these Regulations. Detailed information regarding compliance is included in the Project's ISMND, MMRP, and Conditions of Approval. Adherence is subject to review, approval, or modification by the City of Pittsburg Public Works Department or Engineering Division.

**Violation of Regulations:**

Any violation of the proposed CC-O District, MMRP, or Conditions of Approval for the proposed development shall be subject to Administrative Citation as specified in the Pittsburg Municipal Code, and/or revocation of the Business License and/or Use Permit entitlements.



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR  
65 Civic Avenue  
Pittsburg, CA 94565**

**TO:** Mayor and Council Members

**FROM:** Garrett Evans, City Manager

**SUBJECT:** Adoption of a City Council Ordinance Amending the Zoning Map to Establish a Limited Overlay District for Blue Wave Car Wash, Located at 1160 East Leland Road, AP-21-1562 (RZ, UP, DR)

**MEETING DATE:** February 21, 2023

**EXECUTIVE SUMMARY**

On February 6, 2023, the City Council held a public hearing on a request for adoption an Initial Study Mitigated Negative Declaration (ISMND) and Mitigation Monitoring and Reporting Program (MMRP), an amendment to the Zoning Map to establish a Community Commercial District with a Limited Overlay (CC-O) and approval of a Use Permit and Design Review application of landscape and architectural plans to facilitate development of an automobile washing use at 1160 East Leland Road, for the Blue Wave Car Wash. The City Council introduced and waived further reading of an Ordinance approving a Zoning Map amendment for the project. The Ordinance is now ready for City Council adoption.

**FISCAL IMPACT**

As a result of development of the proposed use, the City would see a small increase in property tax revenue generated by the parcel. Further, the project as proposed would require annexation into Community Facilities District (CFD) 2005-01 for public safety services, which would be assessed annually. The project would also be required to pay regional and local traffic mitigation fees.

**RECOMMENDATION**

City Council move to adopt an Ordinance approving a Zoning Map Amendment and associated Overlay regulations for Blue Wave Car Wash (Attachment 1).

**BACKGROUND**

On December 13, 2022, the Planning Commission adopted Resolution No. 10213 recommending City Council approval of the project proposal in its entirety. On February 6, 2023, the City Council held a public hearing on a request for adoption an Initial Study Mitigated Negative Declaration (ISMND) and Mitigation Monitoring and Reporting Program (MMRP), an amendment to the Zoning Map to establish a Community Commercial District

with a Limited Overlay (CC-O) and approval of a Use Permit and Design Review application of landscape and architectural plans. The City Council introduced and waived further reading of an Ordinance to approve a Zoning Map Amendment for the project.

### **SUBCOMMITTEE FINDINGS**

On July 18, 2018, a proposal to establish an automated car wash use at the subject location was presented to the Land Use Subcommittee. Potential concerns identified by the Subcommittee included noise impacts to neighboring residential uses and queuing into East Leland Road. In general, the Subcommittee was supportive of seeing the project move forward.

### **STAFF ANALYSIS**

After the City Council holds a public hearing and introduces an Ordinance on a given matter, approval of the matter is formalized by City Council adoption of the Ordinance by a majority vote at a meeting no fewer than five days after the public hearing. The Ordinance becomes effective 30 days after the date of its adoption.

### **ATTACHMENTS:**

1. Proposed Ordinance – Rezone
  - a. Exhibit A – Zoning Map Amendment
  - b. Exhibit B – CC-O Overlay Regulations

Prepared by: Kelsey Gunter, Associate Planner

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Adopting Use Permit ) RESOLUTION 23-14237  
Application and Design Review )  
Application for Blue Wave Car )  
Wash, AP-21-1562 (RZ, UP, DR) )

WHEREAS, on April 2, 2021, Daniel A. Moradel with CEI Engineering Associates, Inc., filed Planning Application No. 21-1562, requesting approval of 1) Zoning Map Amendment from CC (Community Commercial) to establish a Limited Overlay District (CC-O) to conditionally permit Automobile Washing, 2) a Use Permit to establish an automatic Automobile Washing facility, and 3) a Design Review application to construct one 3,600 square foot commercial, self-service car wash building. The project site is located at 1160 E. Leland Road, Assessor's Parcel Number (APN): 088-230-028; and

WHEREAS, the proposed project is governed by the applicable goals and policies of the Pittsburg General Plan, the Pittsburg Municipal Code (PMC), and the City's adopted Design Review and Development Guidelines (DRDGs; Planning Commission Resolution No. 9864); and

WHEREAS, the project is subject to the California Environmental Quality Act ("CEQA") (Public Resources Code 21000-21189) and the CEQA guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000-15387); and

WHEREAS, the proposed project is subject to the California Environmental Quality Act (CEQA), and the CEQA Guidelines (Public Resources Code section 21080). Pursuant to the provisions of the CEQA Guidelines, an Initial Study was prepared for the project. Based on the analysis in the Study, it was determined that potentially significant effects of the project could be lessened through specified mitigations, and subsequently, a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program were prepared; and

WHEREAS, on August 12, 2022, a Notice of Intent to Adopt a Mitigated Negative Declaration (NOI) was distributed to the public for a 30-day review, in accordance with CEQA Guidelines section 15105(b). Public distribution of the NOI consisted of delivery to the County Clerk's Office, posting on the City's website, and direct mailing to all interested parties and owners/occupants of the properties directly contiguous with the project, in accordance with CEQA Guidelines section 15072; and

WHEREAS, in accordance with PMC section 18.16.040, the City Council, upon recommendation of the Planning Commission, may grant a Use Permit only if the City Council can make findings that: a) the proposed use is in accord with the objective of the Zoning Ordinance, the purposes of the land use district in which it is located and is appropriate to the specific location; b) the proposed use is not detrimental to

the health, safety, and general welfare of the City; c) the proposed use will not adversely affect the orderly development of property within the City; d) the proposed use will not adversely affect the preservation of property values and the protection of the tax base and other substantial revenue sources within the City; e) the proposed use is consistent with the objectives, policies, general land uses and programs specified in the General Plan and applicable Specific Plan; f) the proposed use will not create a nuisance or enforcement problem within the neighborhood; g) the proposed use will not encourage marginal development within the neighborhood; h) the proposed use will not create a demand for public services within the City beyond that of the ability of the City to meet in light of taxation and spending restraints imposed by law; and i) the proposed use is consistent with the City's approved funding priorities; and

WHEREAS, pursuant to PMC section 18.36.230, the City Council, upon recommendation of the Planning Commission, may grant Design Review approval if it finds that: a) the structure conforms with good taste, good design and in general contributes to the character and image of the City as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality; b) the structure will be protected against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable; c) the exterior design and appearance of the structure is not of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value; d) the structure is in harmony with proposed developments on land in the general area; and e) the application conforms with the criteria set forth in any applicable City adopted Design Guidelines; and

WHEREAS, on December 13, 2022, after conducting a duly noticed public hearing, the Planning Commission adopted Resolution No. 10213, recommending City Council adoption of the Initial Study, Mitigated Negative Declaration, Mitigation Monitoring Reporting Program, Zoning Map Amendment, and approval of the Use Permit and Design Review applications prepared for the project; and

WHEREAS, on or prior to Friday, January 27, 2023, in accordance with Government Code sections 65090 and 65091, and PMC section 18.14.020.B, a "Notice of Public Hearing," for the February 6, 2023, public hearing on this item was published in the East County Times; was posted at City Hall; was delivered for posting at the Pittsburg Library; and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the proposed project site, to local service agencies whose services might be affected by this project, and to individuals who had previously filed written request for such notice; and

WHEREAS, on February 6, 2023, the City Council held a duly-noticed public hearing to: 1) Adopt a Resolution Adopting Initial Study Mitigated Negative Declaration (ISMND) and Mitigation Monitoring and Reporting Program (MMRP), 2) Introduce and Waive First Reading of an Ordinance Amending the Zoning Map, and 3) Adopt a Resolution Approving Use Permit and Design Review Applications for Blue Wave Car Wash, Located at 1160 E. Leland Road, Pittsburg, CA, 94565, AP-21-1562 (RZ, UP, DR), at which time oral and/or written testimony was considered.

NOW, THEREFORE, the City Council DOES RESOLVE as follows:

Section 1. Authority

- A. Article XI, Section 7 of the California Constitution confers on cities the authority to regulate land use within their jurisdictions under the police power and to make and enforce ordinances to protect the public health, safety and welfare. Aesthetic reasons alone justify exercise of the police power (Metromedia, Inc. vs. City of San Diego [1980] 264 C3d 848, 164 CR 510).

Section 2. Findings

- A. Based on the City Council staff report entitled, "Adoption of a City Council Resolution Adopting an Initial Study Mitigated Negative Declaration (ISMND) and Mitigation Monitoring and Reporting Program (MMRP), Introduction and Waive First Reading of an Ordinance Amending the Zoning Map to Establish a Limited Overlay District, and 3) Adoption of a Resolution Approving Use Permit and Design Review Applications for Blue Wave Car Wash, Located at 1160 E. Leland Road, Pittsburg, CA, 94565, AP-21-1562 (RZ, UP, DR)," dated February 6, 2023, and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the public hearing, the City Council finds that:
1. All recitals above are true and correct and are incorporated herein by reference.

Use Permit:

2. The proposed Use Permit:
  - a. Will be in accordance with the objectives of the Zoning Ordinance, the purposes of the land use district in which it is located and will be appropriate to the specific location, in that an Automobile Washing facility is a conditionally permitted use in the proposed CC-O Zoning District in which it would be located. The proposed use is appropriate to the location given its proximity to State Route 4, other commercial businesses, and similar uses in the Base District of Community Commercial (CC).
  - b. Will not be detrimental to the health, safety and general welfare of the City, in that the operation of the proposed use does not involve hazardous materials. The Automobile Washing facility would be located within an existing urban area within the City that is developed with other Commercial uses. The project site is accessible by existing roadway, curb, and gutter improvements, such that residential streets would not be impacted by the increase in traffic generated by the use.

- c. Will not affect orderly development, in that the hotel would be constructed on a vacant infill site that is surrounded by existing Residential and Commercial development.
- d. Will not adversely affect the preservation of property values and the protection of the tax base and other substantial revenue sources within the City, but rather would assist surrounding property values by improving a vacant site and contribute to the City's revenue stream with a new Commercial business within the City.
- e. Will be consistent with the General Plan, in that it will facilitate development of a vacant site and ensure that buffers, including landscaping, be used to separate potentially incompatible uses in the E. Leland Subarea of the General Plan. The project would be consistent with General Plan Goals 2-G-1, 2-G-6, 2-P-13, and 3-P-1.
- f. Will not create a nuisance or enforcement problem within the neighborhood, in that it will be required to meet Performance Standards, as set forth by PMC Chapter 18.82. The Standards are intended to address potential ongoing safety, noise, odor, and maintenance concerns.
- g. Will not create a demand for public services within the City beyond that of the ability of the City to meet in light of taxation and spending restraints imposed by law, in that the project site has access to existing infrastructure, including Fire, Police, and Water.
- h. Will not be inconsistent with the City's approved funding priorities, in that it does not require City funding to operate. The proposed development is a private development, to be established with private funding.

Design Review:

- 3. The proposed Project's design:
  - a. Conforms with good taste, good design and in general will contribute to the character and image of the City as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high-quality, in that it will provide an attractive, modern-looking building within a highly-landscaped environment.
  - b. Will protect against exterior and interior noise, vibrations and other factors that may tend to make the environment less desirable, if it complies with all applicable Building Codes and the proposed Mitigation Monitoring and Reporting Program, prepared for the project, at time of development.
  - c. Will not be of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value; rather, construction of the Automobile Washing facility should

- heighten the appearance of neighborhood, improve property values, and attract additional investment in the area.
- d. Would be in harmony with adjacent commercial development, in that the Automobile Washing facility design consists of a rectangular footprint with staggered walls, a neutral color scheme, and attractive, native-species, densely landscaped surroundings. The building materials would also be complementary, in that they will include cement fiber board, Hardie Board material, and metal accents. The detached equipment and refuse storage structures would be architecturally compatible in terms of colors and materials used to the proposed development.
  - e. Will substantially conform to all applicable Development Review Design Guidelines (DRDG, Planning Commission Resolution No. 9864) for commercial development.
- B. The City Council Staff Report entitled, "Adoption of a City Council Resolution Adopting an Initial Study Mitigated Negative Declaration (ISMND) and Mitigation Monitoring and Reporting Program (MMRP), Introduction and Waive First Reading of an Ordinance Amending the Zoning Map to Establish a Limited Overlay District, and 3) Adoption of a Resolution Approving Use Permit and Design Review Applications for Blue Wave Car Wash, Located at 1160 E. Leland Road, Pittsburg, CA, 94565, AP-21-1562 (RZ, UP, DR)," dated February 6, 2023, is referenced hereto as additional support for findings.

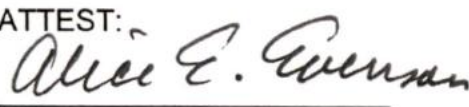
Section 3. Decision

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pittsburg hereby Adopts a Resolution Adopting Use Permit and Design Review Applications for Blue Wave Car Wash Located at 1160 E. Leland Road, Pittsburg, CA, 94565, AP-21-1562 (RZ, UP, DR) subject to the Conditions of Approval as substantially presented in Exhibit A of this Resolution.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 6th day of February 2023, by the following vote:

AYES:	Adams, Banales, Killings, Lopez, Scales-Preston
NOES:	None
ABSTAINED:	None
ABSENT:	None

  
 Shanelle Scales-Preston, Mayor

ATTEST:  
  
 Alice E. Evenson, City Clerk  
 Resolution No. 23-14237

**Exhibit A – Conditions of Approval for proposed City Council Resolution for  
Blue Wave Car Wash, AP-21-1561 (RZ, UP, DR)**

**February 6, 2023**

Planning Condition(s):

- a. **Conformity with Project Plans:** The proposed project shall be constructed in substantial conformity with the Architectural Plans dated July 8, 2022, Landscaping Plan dated July 8, 2022, Exterior Design Plans January 25, 2022, and Lighting and Photometric Plan Dated February 10, 2021, except as may be hereinafter modified. Any major changes to the project plans shall be subject to review and approval by the Planning Commission at the City Planner's discretion.
- b. **Landscape Plans:** The applicant shall install landscaping in substantial compliance with the final Landscape Plan dated July 8, 2022, which identifies the total landscaped area, plant species and quantities. This shall be installed and maintained in conformance with Pittsburg Municipal Code section 18.84.308. A minimum of 10% of the site must be landscaped.
- c. **Landscape Maintenance:** The applicant or subsequent business owner or operator shall be responsible for maintaining landscaping in accordance with the approved landscape plan dated July 8, 2022. Amendments or modifications to the approved landscape plan shall be submitted to the City Planner for approval.  
  
Any elevation of the proposed building that contains blank walls shall install landscaping and/or lattice material to minimize the visual impact of those walls. Landscaping on site and along any blank walls shall be maintained in good, healthy condition.
- d. **Bicycle Parking:** Pursuant to Pittsburg Municipal Code Section 18.78.045, the applicant shall maintain permanent, fixed bicycle racks or lockers for a minimum of four bicycles. The final design and location of any new bicycle rack(s) shall be subject to review and approval by the Planning Division.
- e. **Photometric Plan:** The developer shall maintain substantial conformance with the lighting and photometric plans dated February 10, 2021. This plan shows the location and type of all outdoor lighting. Final location and design shall be subject to review and approval by the Planning Division prior to installation.
- f. **Lighting:** All lighting shall be arranged to reflect light away from adjoining properties and public rights-of-way. In general, lighting fixtures shall be shielded to prevent glare on adjoining properties and public rights-of-way.
- g. **Sign Permits:** Building signage is not approved with this Resolution. The applicant or business operator(s) shall submit proposed signs as part of separate, ministerial Sign Review Permit, which shall be subject to review and approval by the Planning Division prior to installation.

**Exhibit A – Conditions of Approval for proposed City Council Resolution for  
Blue Wave Car Wash, AP-21-1561 (RZ, UP, DR)**

**February 6, 2023**

- h. **Trash Enclosure:** The trash enclosure on site shall be consistent with the City of Pittsburg Trash Enclosure Design Standards and accommodate for refuse recycling and organics, pursuant to Senate Bill 1383 of 2016. The final design, materials and location of the trash enclosure shall be subject to review and approval by the Planning Division.
- i. **Equipment Enclosure:** The proposed vacuum equipment enclosures shall be constructed and designed in substantial conformance with the project plans.
- j. **Peace and Order:** The business operators shall be responsible for maintaining the peace and order on the premises. All necessary steps shall be taken to ensure that the customers refrain from incidents of violence that adversely impact the safety of the community. Should the business operators fail to control loitering, noise, public disturbances or incidents of violence, and in the event that the business necessitates an increased police presence, the Chief of Police may require the business owners to provide additional public safety measures, including but not limited to, video cameras, additional exterior lighting, hiring licensed and bonded security guards approved by the Police Department, or such other measures as determined necessary by the Chief of Police. Any such required additional measures shall be at the business owner's/operator's sole expense.
- k. **Site Maintenance:** The site shall be kept clean and free of all graffiti, litter, debris and refuse at all times. All landscaping on site shall be kept weed free and maintained in a healthy and thriving condition. Outdoor storage shall be prohibited.
- l. **Screening:** Development shall construct and maintain an 8' masonry wall between the project site and the adjacent Residential Development pursuant to PMC Section 18.52.140. It is the responsibility of the Developer to inform the adjacent Residential Development's Property Owner and Manager of the proposed construction of the masonry wall, which will be erected within the 10' required project operation setback. Additional screening regulations shall follow the City of Pittsburg's Development Review Design Guidelines for Screening and the City of Pittsburg's Municipal Code requirements for Screening and Fencing on Site. All final screening materials and finishes shall be subject to review and approval by the Zoning Administrator.
- m. **Utility Screening:** All air conditioning units, utility boxes, transformers, backflow preventers, meters, and junction boxes shall be substantially screened from public view using a block or retaining wall screen, wood/architectural screen, or dense landscaping screen consistent with Appendix 1 of the City of Pittsburg Development Review Design Guidelines (Planning Commission Resolution No. 9864). Compliance with this condition shall be shown on the construction drawings and Improvement Plans submitted for Building and Engineering Permits, and the final design shall be subject to review and approval by the Community and Economic Development Department prior to issuance of said permits.

**Exhibit A – Conditions of Approval for proposed City Council Resolution for  
Blue Wave Car Wash, AP-21-1561 (RZ, UP, DR)**

**February 6, 2023**

- n. Gutters & Downspouts: All gutters and downspouts shall be placed behind exterior walls, consistent with Guideline IV.m of the City of Pittsburg Development Review Design Guidelines (Planning Commission Resolution No. 9864). Final gutter and/or downspout placement shall be identified on the construction drawings and shall be subject to review and approval by the Community and Economic Development Department prior to issuance of a Building Permit.
- o. Code Compliance: The proposed development shall be constructed in conformance with all applicable Codes, fees, and requirements at time of Development (Building/Grading Permit).
- p. Mitigation Monitoring and Reporting Program: Proposed project and any subsequent business or business owner shall maintain strict compliance with the Mitigation Monitoring and Reporting Program, included as Exhibit C of this Resolution.
- q. CC-O Regulations (Zoning Map Amendment): Proposed project and any subsequent business or business owner shall maintain strict compliance with the proposed CC-O regulations, included as Exhibit D of this Resolution.

Environmental Mitigation Measure(s):

- a. The proposed project shall comply with the Mitigation Monitoring and Reporting Program Measures included as Exhibit C of this Resolution.

City of Pittsburg Engineering Division Condition(s):

- a. Improvement and Grading Plan Review fees. The applicant shall provide an initial payment for review of the grading and improvement plans with the first submittal. These fees are based on the engineer's estimated costs for site improvements and grading, which shall be submitted with the plans. The improvement plan check fee is 7% of the cost of the improvements. The grading plan check fee is 2.5% of the cost for grading, or it may be based upon cubic yards of earth disturbance as set forth in the City's Master Fee Schedule. Fifty percent (50%) of these total fees are to be paid with the initial submittal of plans and engineer's cost estimate. These initial payments will be credited towards the final fees as determined at engineering permit. The remainder of the fees shall be due payable prior to issuance of an engineering permit.
- b. Improvement and Grading Inspection fees. The applicant shall pay the improvement and/or grading inspection fee(s) to the Engineering Division prior to the issuance of a single parcel development permit. The current improvement inspection fee is 6.75% of the engineer's estimated cost for improvements. The grading inspection fee is 3% of the engineer's estimated cost of grading. The grading inspection fee may also be based upon an approved engineer's estimate of total cubic yards, according to the current schedule of grading fee charges as set forth in the City's Master Fee Schedule.

**Exhibit A – Conditions of Approval for proposed City Council Resolution for Blue Wave Car Wash, AP-21-1561 (RZ, UP, DR)**

**February 6, 2023**

- c. Facility Reserve Charge. Prior to the issuance of a building permit, the applicant shall pay the City of Pittsburg Facilities Reserve Charge (PMC Chapters 13.08, 13.12 and 13.24) (the "FRC") to the Engineering Division for water and sewer service in the amounts in effect at the time of building permit issuance. The applicant understands that the current FRC on file, effective August 20, 2005, shall be paid in accordance with the fee schedule approved by Resolution No. 05-10290, and amended by Resolution No. 12-11778, on February 21, 2012, a copy of which is available at the City.
- d. Local Traffic Mitigation Fee. Prior to issuance of a building permit, the applicant shall pay the Local Transportation Mitigation Fee (PMC Chapter 15.90) (the "LTMF") amount in effect at the time of building permit issuance. The applicant understands that the LTMF is reviewed and adjusted annually to the current Construction Cost Index (CCI) and may be increased at the City Council's discretion based on revised cost estimates for roadway and transit facilities and other factors that demonstrate an increase is needed to offset traffic impacts caused by new development. The LTMF is calculated by dividing the total fee share of improvement costs by the total number of Dwelling Unit Equivalencies ("DUE") in the City, as described in PMC Chapter 15.90 and the Pittsburg Local Transportation Mitigation Fee Program Update, copies of which are available from the City.
- e. Regional Traffic Mitigation Fee. Prior to issuance of a building permit, the applicant shall pay the Regional Transportation-Development Impact Mitigation Fee (PMC Chapter 15.103) (the "RTDIM") amount in effect at the time of building permit issuance. The RTDIM will be automatically increased or decreased on January 1 of each year based on the percent change in the Engineering News-Record Construction Costs Index – San Francisco Bay Area, between September 1 and September 1 of the preceding two calendar years.
- f. GIS Update. Prior to the issuance of an engineering permit, the applicant shall pay the Geographic Information System (GIS) fee as set forth in the City's Master Fee Schedule. The current fee is \$119 plus \$0.06/sf of parcel improvements for non-residential uses.
- g. Supplemental Studies. If additional engineering studies are deemed necessary by the City Engineer, i.e., geotechnical, structural, hydraulic, etc., or expedited reviews are requested by the applicant, the applicant shall pay for all costs related to the extra work. The costs shall be paid at the time of first plan check submittal, and they may include all costs associated with the preparation of special studies, additional staff time, and/or reviews of the special studies if studies are prepared by the applicant's engineer.

**ENGINEERING SUBMITTALS:**

- h. Improvement Plans. The applicant shall submit electronic, pdf. files of the engineering plans to the Engineering Division for review and approval through the

**Exhibit A – Conditions of Approval for proposed City Council Resolution for  
Blue Wave Car Wash, AP-21-1561 (RZ, UP, DR)**

**February 6, 2023**

Accela permitting portal. The plans shall be prepared by a registered civil engineer, to include but not be limited to the following:

- A Site Plan
  - A Grading and Drainage Plan
  - A Utilities Plan
  - A Landscaping and Irrigation Plan
  - A Stormwater Control Plan and Report
  - An Erosion and Sedimentation Control Plan
  - Offsite Improvements due to Project Impacts
- i. Geotechnical Report. The applicant shall submit a current geotechnical report that supports the design features incorporated into this project including, but not limited to, grading activities, compaction requirements, utility construction, slopes, retaining walls, and roadway sections. The geotechnical report shall be submitted to the Engineering Division for review prior to the approval of any civil plans and/or the issuance of a site development permit.
- j. Stormwater Pollutants. The applicant shall incorporate long-term best management practices (BMP's) for the reduction or elimination of storm water pollutants. The project design shall incorporate wherever feasible, the following long term BMPs to limit pollutant generation, discharge, and runoff. Such source control design measures may include:
- Incorporating landscaping that minimizes irrigation and runoff, promotes surface infiltration where possible, minimizes the use of pesticides and fertilizers, and incorporates appropriate sustainable landscaping practices.
  - Providing covered trash, food waste, and compactor enclosures.
  - Using pavers for walkways and other appropriate hardscape surfaces to minimize impervious areas.
  - Minimizing the amount of directly connected impervious surface area.
  - Marking all storm drains with "No Dumping, Drains to Delta" messages.
  - Constructing concrete driveway weakened plane joints at angles to assist in directing run-off to landscaped/pervious areas prior to entering the street curb and gutter.
  - Plumbing of the following discharges to the sanitary sewer, subject to Delta Diablo's authority and standards:
    - ✓ Discharges from indoor floor mat/equipment/hood filter wash racks or covered outdoor wash racks for restaurant.
    - ✓ Dumpster drips from covered trash and food compactor enclosures.
    - ✓ Discharges from outdoor covered wash areas for vehicles, equipment, and accessories.
    - ✓ Fire sprinkler test water if discharge to onsite vegetated areas is not a feasible option.

**Exhibit A – Conditions of Approval for proposed City Council Resolution for  
Blue Wave Car Wash, AP-21-1561 (RZ, UP, DR)**

**February 6, 2023**

- k. Stormwater Pollution Protection During Construction. Prior to the issuance of a grading permit, the applicant shall submit an Erosion and Sedimentation Control Plan or Stormwater Pollution Prevention Plan (if the project requires a permit from the State Water Resources Control Board under the provisions of the General Construction Permit) to the Engineering Division for review. The Stormwater Pollution Prevention Plan measures shall also include measures to prevent soil, dirt, and debris from entering the storm drain system, in accordance with California Stormwater Quality Association's (CASQA's) construction handbook.
- l. Stormwater Control Plan. Grading, improvement, and/or building plans shall be consistent with the approved Stormwater Control Plan. The C.3 treatment facilities shall be adequately sized to treat the stormwater runoff from the associated drainage management areas and incorporate adequate designs to comply with current hydrograph modification requirements. The grading, improvement, and landscaping plans shall include drawings and specifications necessary to implement all measures in the Stormwater Control Plan. Design features should incorporate low impact development design standards as outlined in the most current edition of the Contra Costa Clean Water Program's C.3 Guidebook. These features include limiting directly connected impervious area, and incorporating pervious pavements, self-retaining areas, treatment BMPs, permanent stormwater control BMPs, and other features that control stormwater flow and potential for stormwater pollutants. Grading and/ or building permits shall not be issued until this condition is met to the satisfaction of the Engineering and Planning Divisions.
- m. Operations and Maintenance Plan. The applicant shall submit a Stormwater BMP Operation and Maintenance Plan for the continuous maintenance of all C.3 facilities constructed to meet the C.3 requirements of the project. The final plan shall be submitted to the Engineering Division prior to the certificate of occupancy.
- n. Operation and Maintenance Agreement and Right of Entry. The applicant shall execute the Operations and Maintenance Agreement and Right of Entry, which pertain to the transfer of ownership and / or long-term maintenance of stormwater treatment BMPs or hydrograph modification BMPs prior to the issuance of a certificate of occupancy. The Guidelines for the preparation of Stormwater BMP Operation and Maintenance Plans are found on the Contra Costa County Clean Water Program website ([www.cccleanwater.org](http://www.cccleanwater.org)) or the Stormwater C.3 Guidebook, most current edition.

**UTILITIES:**

- o. Off-Site Capacity Evaluation. The applicant shall evaluate the existing, receiving storm, sewer, and water facilities for adequate capacity and provide the results to the City to identify any service or supply problems. The cost for installation of additional facilities required to be constructed to accommodate the project shall be borne by the applicant.

**Exhibit A – Conditions of Approval for proposed City Council Resolution for  
Blue Wave Car Wash, AP-21-1561 (RZ, UP, DR)**

**February 6, 2023**

- p. Applicant shall locate and construct all wet utilities in conformance with the City standard Plans and Specifications in effect at the time of permit application submittal.
- q. The applicant shall provide frontage improvements, sidewalk and driveway approach in accordance with current City standard specifications and provisions. The sidewalk along Leland Road, fronting the project site shall be widened to 10 feet.

ENGINEERING EXACTIONS (CFD inclusion):

- r. Annexation Documentation for CFD 2005-1. The applicant shall agree to annex into the Community Facilities District 2005-1, which is for public safety services. The fees collected will provide funding for an increase of police coverage in the area. The rate of the CFD 2005-1 fee is subject to City Council Resolution No. 05-10342. The applicant shall deliver written approval in a manner acceptable to the Community Development Director, that the owner of the parcel is electing to annex the subject property into the 2005-1 Public Safety Services Community Facilities District (CFD 2005-1), prior to the issuance of any building or engineering permits.
- s. Annexation Documentation for CFD 2017-1. The applicant shall agree to annex into the Community Facilities District 2017-1, which is for fire facilities and fire safety and emergency services. The rate of the CFD 2017-1 fee is subject to City Council Resolution No. 17-13311. The applicant shall deliver written approval in a manner acceptable to the Community Development Director, that the owner of the parcel is electing to annex the subject property into the 2017-1 Fire Facilities and Fire Safety and Emergency Services Community Facilities District (CFD 2017-1), prior to the issuance of any building or engineering permits.

Contra Costa County Hazardous Materials Condition(s):

- a. There are no permits needed through the Hazardous Materials Programs prior to opening the business based on the submitted information. Once the facility is built and running, however, the business may require a hazardous materials business plan permit through the Hazardous Materials Programs. Please contact [cccchazmat@cccchealth.org](mailto:cccchazmat@cccchealth.org) or (925) 655-3200 for further information.

Contra Costa County Fire Protection District Condition(s):

- a. The Contra Costa County Fire Protection District has development impact fees established in the unincorporated County and in the Cities of Antioch and Pittsburg. Projects within the development impact areas will need to pay the fees prior to Building Permit issuance.
- b. Access as shown on plans complies with Fire District requirements. Provide emergency apparatus access roadways with all-weather (paved) driving surfaces of not less than 20-foot unobstructed width, and not less than 13 feet 6 inches of vertical clearance, to within 150 feet of travel distance to all portions of the exterior walls of

**Exhibit A – Conditions of Approval for proposed City Council Resolution for  
Blue Wave Car Wash, AP-21-1561 (RZ, UP, DR)**

**February 6, 2023**

every building. Access shall have a minimum outside turning radius of 45 feet and must be capable of supporting the imposed fire apparatus loading of 37 tons. Access roadways shall not exceed 20% grade. Grades exceeding 16% shall be constructed of grooved concrete per the attached Fire District standard. (503) CFC

- c. Access roadways of less than 28-feet unobstructed width shall have signs posted or curbs painted red with the words NO PARKING - FIRE LANE clearly marked. {22500.1) CVC, (503.3) CFC. Access roadways of 28 feet or greater, but less than 36-feet unobstructed width shall have NO PARKING - FIRE LANE signs posted, allowing for parking on one side only or curbs painted red with the words NO PARKING - FIRE LANE clearly marked. (22500.1) eve, {503.3) CFC
- d. Access gates for Fire District apparatus shall be a minimum of 20-feet wide. Access gates shall slide horizontally or swing inward and shall be located a minimum of 30 feet from the street. Electrically operated gates shall be equipped with a Knox Company key-operated switch. Manually operated gates shall be equipped with a non-casehardened lock or approved Fire District lock. Contact the Fire District for information on ordering the key operated switch. (D103.5) CFC.
- e. The developer shall provide an adequate and reliable water supply for fire protection as set forth in the California Fire Code. (507.1) CFC
- f. A land development permit is required for access and water supply review and approval prior to submitting building construction plans. The developer shall submit a minimum of two (2) copies of full size, scaled site improvement plans indicating:
  - 1. All existing or proposed hydrant locations,
  - 2. Fire apparatus access to include slope and road surface
  - 3. Elevations of building,
  - 4. Size of building and type of construction,
  - 5. Gates, fences, retaining walls, bio-retention basins, any obstructions to access.
  - 6. Detail showing the lowest level of fire department vehicle access and the floor level of the highest occupied floor,
  - 7. Striping and signage plan to include "NO PARKING-FIRE LANE" markings
  - 8. Provide drawings for paths from the public way to under emergency escape and rescue openings showing a proposed clear path and clear space under these openings that allow for the placement of ground ladders at a climbing angle of 70 to 75 degrees and a minimum of 18" clearance from the base of the ladder to any obstruction (see attached ground ladder access standard) for review and approval prior to obtaining a building permit.
- g. This is a separate submittal from the building construction plans. These plans shall be approved prior to submitting building plans for review. (501.3) CFC

**Exhibit A – Conditions of Approval for proposed City Council Resolution for  
Blue Wave Car Wash, AP-21-1561 (RZ, UP, DR)**

**February 6, 2023**

- h. Emergency apparatus access roadways and hydrants shall be installed, in service, and inspected by the Fire District prior to construction or combustible storage on site. (501.4) CFC

Note: A temporary aggregate base or asphalt grindings roadway is not considered an all-weather surface for emergency apparatus access. The first lift of asphalt concrete paving shall be installed as the minimum roadway material and must be engineered to support the designated gross vehicle weight of 22 / 37 tons.

- i. New buildings shall have approved radio coverage for emergency responders. An emergency responder radio coverage system shall be installed when the conditions of CFC 510.4.1 are not met. Testing shall be conducted, and the results submitted to the Fire District prior to the building final. (510.1) CFC
- j. The developer shall provide traffic signal pre-emption systems (Opticom) on any new or modified traffic signals installed with this development. (21351) CVC
- k. Flammable or combustible liquid storage tanks shall not be located on the site without obtaining approval and necessary permits from the Fire District. (3401.4) CFC
- l. The owner shall cut down and remove all weeds, grass, vines, or other growth that is capable of being ignited and endangering property. (304.1.2) CFC
- m. The owner or the owner's authorized agent shall be responsible for the development, implementation and maintenance of a written plan in compliance with NFPA 241, establishing a fire prevention program at the project site applicable throughout all phases of the construction. The plan shall be made available for review by the fire code official upon request. (Ch.33) CFC
- n. The fire prevention program superintendent shall develop and maintain an approved prefire plan in cooperation with the fire chief. The fire chief and fire code official shall be notified of changes affecting the utilization of information contained in such prefire plans. {Ch.33) CFC
- o. The developer shall submit a minimum of two (2) complete sets of building construction plans and specifications for the subject project to the Fire District. After the new construction/ tenant improvement plans are approved, plans and specifications for all deferred submittals shall be submitted, including, but not limited to the following.
- Carbon Dioxide Systems
  - Aboveground/underground flammable/combustible liquid storage tanks
  - Commercial kitchen hood extinguishing systems
  - Spray booths
  - Special suppression systems

**Exhibit A – Conditions of Approval for proposed City Council Resolution for  
Blue Wave Car Wash, AP-21-1561 (RZ, UP, DR)**

**February 6, 2023**

- Emergency Responder Radio Coverage System (ERRCS)
- p. Plans shall be submitted to the Fire District for review and approval prior to construction of the building or installation of the systems to ensure compliance with minimum requirements related to fire and life safety. Plan review and inspection fees shall be submitted at the time of plan review submittal. (105.4.1) CFC, (901 .2) CFC, (107) CBC
- q. CONTACT THE FIRE DISTRICT (MINIMUM 2 WORKING DAYS IN ADVANCE) AT 925-941-3300 EXT 3902 TO SCHEDULE AN INSPECTION OF THE ACCESS AND HYDRANT INSTALLATION PRIOR TO CONSTRUCTION OR THE STORAGE OF COMBUSTIBLE MATERIALS ON THE JOB SITE.

Standard Conditions:

- a. Grounds for Revocation: Operation in a manner inconsistent with that described in the Report, violation of a zoning regulation or condition of this Resolution, existence of a public nuisance, or conviction of a federal or state law or City ordinance in connection with the operation of the use shall be Grounds for Revocation of the Use Permit (PMC section 18.28.100).
- b. Standard Conditions of Development: The Standard Conditions of Development as adopted by the Pittsburg Planning Commission by Resolution No. 8931 shall apply as Conditions of Approval for this project as applicable. Where there is a conflict between the Standard Conditions of Development and the project-specific conditions identified in this resolution, the specific conditions of this Resolution shall govern.
- c. Other Agency Requirements: The applicant shall comply with all the requirements of the City's Community and Economic Development Department, Contra Costa County Fire Protection District, and all other applicable local, state and federal agencies. It is the responsibility of the applicant to contact each local, state, or federal agency for requirements that may pertain to this project.
- d. Indemnification: The applicant agrees to indemnify, defend, and hold harmless the City, its officials, officers, employees, agents and consultants from any and all administrative, legal or equitable actions or other proceedings instituted by any person challenging the validity of this project approval, subsequent project approval, or other action arising out of, or in connection with, this project approval. The parties shall cooperate in defending such action or proceeding. The parties shall use reasonable efforts to select mutually agreeable defense counsel but, if the parties cannot reach agreement, City may select its own legal counsel at applicant's sole cost and expense. The applicant may select its own legal counsel to represent the applicant's interests at the applicant's sole cost and expense. The applicant shall pay for City's costs of defense, whether directly or by timely reimbursement to City on a monthly basis. Such costs shall include, but not be limited to, all court costs and

**Exhibit A – Conditions of Approval for proposed City Council Resolution for  
Blue Wave Car Wash, AP-21-1561 (RZ, UP, DR)**

**February 6, 2023**

attorneys' fees expended by City in defense of any such action or other proceeding, plus staff and City Attorney time spent responding to and defending the claim, action or proceeding.

- e. Expiration of Approval: Use Permit and Design Review approval will expire on February 6, 2026, unless a Building Permit or Grading Permit has been issued or a written request for extension is filed with the Planning Division prior to the expiration date and subsequently approved by the Planning Commission. The approval shall be valid for no more than six months from the date of Building or Grading Permit issuance unless work is commenced and diligently pursued prior to the expiration of the Building or Grading Permit. The term of the Use Permit approval shall be co-terminus with the Design Review approval for this project.

# **EXHIBIT 6**

## **REPLY IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION**

1 Sam Ferguson (270957)  
sam@fergusonlawpc.com  
2 Katharine Kates (155534)  
katharine@fergusonlawpc.com  
3 FERGUSON LAW PC  
1816 5<sup>TH</sup> Street  
4 Berkeley, CA 94710  
5 Tel.: (510) 548-9005

6 William Berland (43879)  
bill@fergusonberland.com  
7 FERGUSON & BERLAND  
1816 5<sup>TH</sup> Street  
8 Berkeley, CA 94710  
9 Tel.: (510) 548-9005

10 Noah Berland (227018)  
noah@ndblaw.com  
11 1816 5<sup>th</sup> Street  
12 Berkeley, CA 94710  
13 Tel.: (510) 548-9005

14 Attorneys for Plaintiffs  
E. Leland Road Associates, LLC and Total Renal Care, Inc.

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA

16 COUNTY OF CONTRA COSTA

17 E. LELAND ROAD ASSOCIATES,  
18 LLC, a California Limited-Liability  
19 Company, and TOTAL RENAL CARE,  
INC.,

20 Plaintiffs,

21 v.

22 BW E LELAND PITTSBURG LLC

23 Defendant.  
24  
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27  
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Case No. C25-01748

**REPLY IN SUPPORT OF MOTION FOR  
PRELIMINARY INJUNCTION**

Judge: Danielle K. Douglas  
Dept: 18  
Hearing: October 3, 2025  
Time: 9:00 a.m.

Action Filed: June 20, 2025

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## I. INTRODUCTION

Blue Wave appears to have fundamentally misunderstood the issues in this case. Whether zoning allows for their proposed carwash is beside the point. Likewise, despite Blue Wave’s arguments otherwise, Plaintiffs have not sued for illegal nuisance. Rather, Plaintiffs have asked this Court for declaratory and injunctive relief based on a private easement. Blue Wave’s proposed carwash design will violate the terms of that Easement, which is shared by the parties’ adjoining properties. The Easement specifically prohibits uses by either parcel that “interfere with, or obstruct or delay the conduct of the businesses” on the adjoining parcel. Plaintiffs are entitled to a preliminary injunction because the business located on Parcel B, DaVita, will suffer irreparable injury from the interference and delays likely to be caused by the influx of high-volume carwash traffic into the parking lot of its dialysis center serving highly vulnerable patients receiving life-saving treatment for end-stage renal disease.

The harm to DaVita and its patients from delay in entering the facility and potential injury in the parking area is not speculative, it is very likely. Plaintiff DaVita serves 105 patients at its Delta View Center — these patients are wholly dependent on receiving dialysis treatment to stay alive. As prescribed by these patients’ nephrologists, each patient receives three dialysis sessions per week for approximately four hours per session. Receiving less than the fully prescribed treatment can lead to serious negative health consequences. Missing treatment — even just ten minutes of a four-hour session — significantly increases the patients’ future risk of hospitalization and even death. It is paramount that patients be able to safely and efficiently access the Delta View Center for dialysis treatment.

The Delta View Center administers dialysis to patients six days a week in three tightly-scheduled shifts per day. Clinton Johnson, DaVita’s Regional Operations Director, set forth these facts in his opening declaration. Plaintiffs’ traffic engineering expert, Grant Johnson, closely examined the proposed traffic patterns resulting from Defendant’s proposed carwash and found that they introduced two-way traffic, unregulated intersections, and a large volume of vehicles during peak times. He opined that these factors would create a hazardous environment for DaVita’s

1 patients entering and exiting the facility. In sum, the proposed carwash will interfere with patients'  
2 access to the Delta View Center and obstruct and cause delays for patients in obtaining treatment.  
3 Not only does this pose serious health consequences for patients of the Delta View Center, it also  
4 directly violates the terms of the governing Easement.

5 Moreover, Defendant Blue Wave has utterly failed to rebut the likely harms its proposed  
6 high-volume carwash would cause to the operations of the Delta View Center. In fact, Blue Wave  
7 admits that its carwash operations may cause (in its words) “minor traffic delays” to DaVita  
8 patients, but in Blue Wave’s opinion, this is unimportant. Not only is unreasonable delay an explicit  
9 prohibition in the Easement, it also has very real consequences for patients who rely on full  
10 treatment for their health and survival. Blue Wave dismisses Plaintiffs’ evidence of these real-world  
11 consequences as “pure hyperbole” but fails to explain how the need for treatment “only” three times  
12 per week diminishes the need of Delta View’s 105 patients for safe and unobstructed access to the  
13 Delta View Center. Nor does Blue Wave provide any evidence to dispute Clinton Johnson’s  
14 testimony that the Delta View Center must maintain a strict schedule to ensure all patients receive  
15 full treatment and that serious health consequences will result if patients’ access to the Delta View  
16 Center is obstructed or delayed. These consequences do not have an adequate remedy at law.

17 To protect access to critical healthcare, the Court should grant the preliminary injunction to  
18 preserve the status quo until a full trial on these issues.

## 19 **II. ARGUMENT**

### 20 **A. Plaintiffs have standing to seek an injunction**

21 DaVita is in the business of delivering life-saving dialysis treatment to its patients.  
22 Interference with DaVita’s ability to provide high quality healthcare is a direct harm to DaVita and  
23 its individual patients. If patients are unable to receive the high level of care they have come to  
24 expect from DaVita centers, the result would be reputational and operational harm to DaVita, as  
25 well as harm to the DaVita teammates who have devoted their careers to caring for patients.

26 Additionally, DaVita as a medical provider has standing to assert the rights of its patients.  
27 *Griswold v. Connecticut*, 381 U.S. 479, 481 (1965). Without this right, patients’ interests “are likely  
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1 to be diluted or adversely affected.” *Id.* The California Supreme Court has confirmed this rule  
2 especially where “the patients are unable to assert their own rights,” *Lewis v. Superior Court*, 3 Cal.  
3 5th 561, 570 (2017), as they are in this case because the patients lack the property interest held by  
4 DaVita. *See Kinney v. Overton*, 153 Cal. App. 4th 482, 496 (2007). Because DaVita “has an interest  
5 in patients seeking appropriate treatment and using appropriate medication,” Blue Wave’s plans to  
6 burden access to that care are “inextricably bound up with the activity the litigant wishes to pursue  
7 in this case.” *Lewis*, 3 Cal. 5th at 570. As a result, DaVita may assert the interests of patients.

8 As the owner of 1150 E. Leland Road and a party to the Easement, Plaintiff E. Leland Road  
9 Associates has “standing to assert the rights conferred under that contract.” *See, e.g., Dolnikov v.*  
10 *Ekizian*, 222 Cal.App.4th 419, 428-29 (2013). E. Leland Road Associates additionally has an  
11 interest in this matter as the lessor of the 1150 E. Leland Road parcel to DaVita.

12 Moreover, the Easement itself prohibits uses that “unreasonably interfere with, obstruct or  
13 delay the conduct and operations of the business of any other Owner or its Permittees at any time  
14 conducted on the Parcel, including, without limitation, public access to and from said business, and  
15 the receipt or delivery of merchandise in connection therewith.” Easement § 2.4. It therefore  
16 contemplates not just the direct harm to the owner of a business located on one of the adjoining  
17 parcels, but also harm to that business’s permittees and other members of the public — here,  
18 DaVita’s patients, teammates, vendors, rounding physicians and emergency vehicles. Such harm is  
19 entirely relevant and indeed explicitly prohibited by the Easement.

20 **B. Defendant’s proposed use violates the terms of the Easement**

21 **1. The zoning overlay does not impact the terms of the Easement**

22 Blue Wave primarily relies upon the zoning overlay it obtained from the City of Pittsburg  
23 as evidence of the reasonableness of its proposed use. Courts, however, may enjoin the violation of  
24 a covenant or easement even where the defendant has obtained a zoning variance allowing the use  
25 in question: “land use, violative of restrictions, may be enjoined even though a zoning permits it.”  
26 *Mullally v. Ojai Hotel Co.*, 266 Cal. App. 2d 9, 10, 12 (Cal. App. 1968) (defendant hotel could not  
27 build tennis courts or rent rooms in a neighborhood subject to a restrictive covenant, despite change  
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1 to zoning ordinance); *see also Wilkman v. Banks*, 124 Cal. App. 2d 451, 455 (Cal. App. 1954)  
2 (enjoining use of a home in a private development as a sanitarium after zoning changes because  
3 “[a]n act of sovereignty with respect to lands already restricted by a general plan against specified  
4 uses confers no authority to violate the existing restrictive covenants as to use”). Whether the  
5 proposed carwash is consistent with the zoning designation “Community Commercial,” as Blue  
6 Wave argues, is a separate and distinct issue from whether it violates the Easement governing the  
7 parcels and whether such violation will cause harm, like here.

8 Blue Wave also argues that its carwash poses “a lesser traffic burden” than “other allowed  
9 uses” under the Community Commercial zoning designation and therefore is unobjectionable. But  
10 there is no *per se* “allowed use” under the Easement. Paragraph 2 of the Easement prohibits *any*  
11 use that unreasonably interferes with, obstructs, or delays the operations at the Delta View Center.  
12 “Community Commercial” zoning designation has no impact on the analysis. *See Mullally*, 266  
13 Cal. App. 2d at 10-12; *Wilkman*, 124 Cal. App. 2d at 455. Moreover, Defendant’s hypothetical  
14 “coffee shop” and “fast-food restaurant” remain entirely speculative. *See G. Johnson Reply Decl.*  
15 ¶¶ 24-25. Even if zoning regulations allow a particular use, paragraph 2 of the Easement  
16 nonetheless prohibits that use if it unreasonably interferes with access or causes obstruction or  
17 delay. Whether the business is the proposed carwash, a café or fast-food establishment, it is not  
18 “allowable” unless it meets the reasonable access standards contained in the Easement.

19 **2. The proposed configuration will create safety hazards and cause  
20 obstruction and delay for Delta View patients.**

21 Plaintiffs have submitted substantial evidence that the carwash will violate Paragraph 2 and  
22 otherwise overburden the Easement. Plaintiffs’ traffic expert, Grant Johnson, has explained that  
23 Blue Wave’s proposed use reflects both a substantial influx of additional vehicles and introduces a  
24 complicated traffic configuration in which the two-way flow of traffic through the carwash will  
25 create three new intersections that interface with the Delta View Center’s parking area. *See G.*  
26 *Johnson Decl.* ¶¶ 4, 11 and Figures 1 and 2. The resulting disorderly traffic flow creates safety  
27 hazards for both vehicles and pedestrians and will result in delays for patients accessing to the Delta  
28 View Center — many of whom require assistance and use wheelchairs or walkers. *Id.* at ¶¶ 4, 12,

1 14, 22. Of particular concern, the proposed configuration results in traffic flow conflicts, difficulty  
2 in perpendicular parking, difficult turning movements due to the absence of a defined right of way,  
3 and blind spots. *Id.* at ¶¶ 12, 15-18. Public safety access is also compromised by the design due to  
4 the increased traffic and the difficulty in turning. *Id.* at ¶ 12.

5 Blue Wave compares its expected peak traffic hours with a hypothetical alternative  
6 “allowed use.” *Opp.* at 6:17-22, 14:21-25; Whitlock Decl., at ¶¶ 7-9, 18-19. The problem with Blue  
7 Wave’s carwash, however, is both the volume of additional vehicles and the overall design. *See* G.  
8 Johnson Decl. at ¶¶ 11, 12. “Poor design may decrease the number of vehicles that can safely  
9 traverse a road.” G. Johnson Reply Decl. ¶ 6. Mr. Johnson discusses the safety impacts of the  
10 increased traffic volume in the context of the complicated and unsafe traffic pattern proposed. *See*  
11 G. Johnson Decl. at ¶¶ 4, 11, 12-17, Reply Decl. ¶ 8-16.

12 In a related tack, Blue Wave repeatedly seeks to represent the proposed configuration as  
13 merely “typical” of any parking lot. *See* Whitlock Decl. at ¶¶ 7, 14, 18, 20. And in response to  
14 Grant Johnson’s identification of uncontrolled and unsafe intersections, Whitlock focuses on  
15 whether such traffic flows meet the technical definition of an “intersection” taken from the  
16 California Vehicle Code. *Id.*, ¶ 10. She dismisses real-world safety concerns based only on this  
17 technicality. *Id.* ¶ 14. But Blue Wave’s proposed uncontrolled intersections create hazards for  
18 pedestrians not seen in a typical parking lot. *See* G. Johnson Reply Decl. at ¶¶ 9, 13, 18. And its  
19 configuration creates conflicts between vehicles attempting to back out of a parking space or  
20 entering a handicap space and vehicles exiting the carwash — conflicts that are not typical in  
21 parking lot design. *Id.* at ¶ 16. Indeed, Blue Wave concedes that typical parking lots “are usually  
22 designed with simpler circulation patterns, reduced speeds, and more direct access points.”  
23 Whitlock Decl. at ¶ 18. As only a passing glance demonstrates, Blue Wave’s proposed traffic  
24 configuration has none of these attributes. Instead, it has a complicated circulation pattern and  
25 indirect access points, all of interface with the Easement. *See* Grant Johnson Decl., Figure 1:

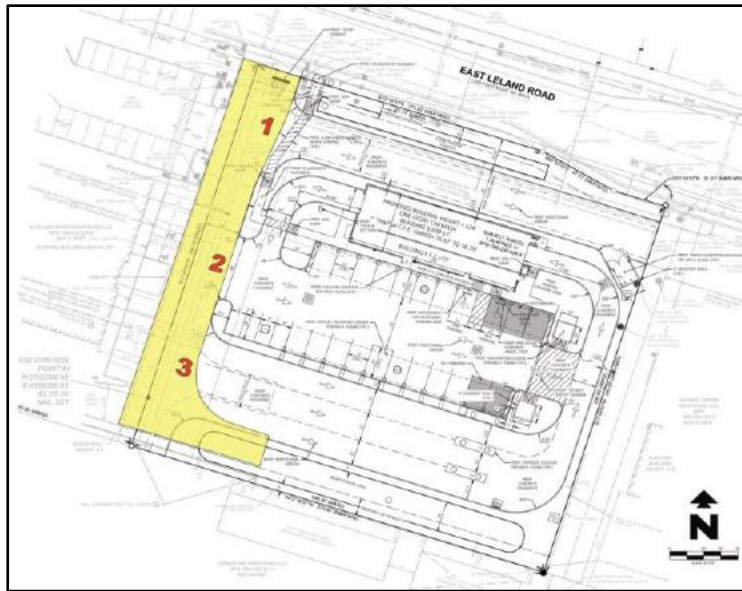


Figure 1. New Intersections Formed with Blue Wave Access at Nos. 1, 2, and 3

**3. Blue Wave dismisses evidence of the impact on patients**

The Easement prohibits use on Parcel A (Blue Wave) that would cause delay or obstruct access on Parcel B; it also recognizes that a dialysis center will occupy Parcel B. See Easement ¶ 5.1 (“Parcel B may be used for a renal dialysis clinic”). Based on these provisions, the drafters clearly sought to protect access for dialysis patients. Yet, Blue Wave dismisses the delays to dialysis patients as an “inconvenience.” Opp. at 6:11-13, 19:15-17 (“any reasonable patient would simply tolerate minor increases in parking lot traffic”). It completely dismisses DaVita’s evidence of the impact on patients. Shortened or missed dialysis treatments can have serious medical consequences — and even risk mortality. See C. Johnson Decl. ¶ 18. As Clinton Johnson explains in his supplemental declaration, it is “well known among those that work in the dialysis industry that shortened treatments (i.e. when patients do not receive the full four hours prescribed by their nephrologist) can lead to significantly increased risks of hospitalization and even death for patients. The damage to a patients’ health caused by shortened or skipped treatments is cumulative and cannot be reversed.” See C. Johnson Suppl. Decl. ¶5; see also *People v. ConAgra Grocery Products Co.*, 17 Cal. App. 5th 51, 87 (Cal. App. 2017) (relying on evidence that hazards of lead paint well known in the industry). The medical literature indicates that shortening one or more sessions per

1 month by more than 10 minutes is associated with increased mortality risk and hospitalization.<sup>1</sup>  
2 And Clinton Johnson has explained that the Delta View Center runs on tightly scheduled and  
3 inflexible shifts to assure that all patients receive the full treatment prescribed by their nephrologist.  
4 See C. Johnson Decl. ¶ 5. In addition, many patients are not independently mobile and need  
5 assistance to navigate the parking area — leading to increased risk of harm from the proposed  
6 traffic flow. *Id.* ¶ 6; Suppl. Decl. ¶ 6. With no evidence to rebut Clinton Johnson, Blue Wave’s  
7 minimization of patient impact must be disregarded.

#### 8 **4. Blue Wave ignores numerous practical safety concerns**

9 Blue Wave takes issue with Grant Johnson’s characterization of the traffic configuration as  
10 a “street” based on the California Vehicle Code definition. See Whitlock Decl. ¶ 10. But his analysis  
11 identifies safety issues from a practical standpoint and based on the facts at issue here. Indeed,  
12 Grant Johnson explained that Blue Wave’s proposal creates “new intersections and high-volume  
13 two-way traffic. . . that impedes the safety of pedestrians and vehicles.” G. Johnson Decl., ¶ 13; see  
14 also G. Johnson Reply Decl., ¶¶ 5, 8-10, 16.

15 Blue Wave’s expert also assumes that, as in a standard parking lot, carwash patrons will  
16 travel at a much lower speed and change their focus to “*scanning for pedestrians, maneuvering the*  
17 *aisles or finding parking.*” Whitlock Decl., ¶ 11 (emphasis added). But a carwash is fundamentally  
18 different from a restaurant or a strip mall in this respect. Grant Johnson explains that “[u]nlike  
19 typical customers. . . who slow down to find parking, the carwash patrons are not traversing the  
20 Easement to look for parking. They have a single destination in mind, i.e. the three-lane payment  
21 queue driveway at the southern end of the parcel.” G. Johnson Reply Decl., ¶ 11. Moreover,  
22 “scanning for pedestrians” at a lower speed is speculative — the numerous traffic conflicts  
23 identified by Grant Johnson will not be solved through driver behavior.

24 Finally, Blue Wave’s expert asserts that pedestrian safety poses no concern because those  
25

---

26 <sup>1</sup> See Saran et al, “Nonadherence in hemodialysis: Association with mortality, hospitalization, and  
27 practice patterns in DOPPS,” *Kidney International*, Vol. 64 (2003), pp. 254–262 (attached to  
28 Ferguson Decl. as Exhibit A). Patients are considered nonadherent if they shorten one or more  
sessions per month by more than 10 minutes. “Nonadherence was associated with increased  
mortality risk . . . and with hospitalization risk.”

1 who wish to access the Delta View Center will park in areas adjacent to the building, on the western  
2 side of the Easement. *See* Whitlock Decl., ¶¶11, 13. But Clinton Johnson testifies that the parking  
3 lot nears full capacity during the busy “changeover” window that occurs between the treatment  
4 shifts. *See* Clinton Johnson Decl. ¶ 11. Further, the front of the building is on the eastern side, which  
5 encourages parking in the area where Blue Wave patrons will be driving. *See* G. Johnson Reply  
6 Decl., ¶¶ 21-22.

### 7 **5. Emergency vehicle access must be preserved**

8 Blue Wave’s expert assumes that widening the traffic aisle provides sufficient space for  
9 emergency vehicle access. But due to the congestion from carwash traffic and the three new  
10 complicated intersections, emergency vehicles will not likely have an “unobstructed width” of 20  
11 feet, as Ms. Whitlock asserts. Instead, Blue Wave’s proposed design will likely cause unreasonable  
12 delays for emergency vehicles attempting to enter/exit and maneuver through the Easement. *See* G.  
13 Johnson Reply Decl., ¶ 27. This is especially true during busy changeover windows. *See* Clinton  
14 Johnson Decl. ¶ 11. Again, Blue Wave disregards Clinton Johnson’s testimony that the Delta View  
15 Center serves a vulnerable population that is more likely to require emergency services. *Id.* at ¶ 17.  
16 Emergency vehicles must have free and clear access through the same parking lot as patients,  
17 teammates, other visitors, and the carwash patrons.

### 18 **6. The Easement terms apply even if Blue Wave received zoning approval**

19 Blue Wave discusses at length the zoning process it engaged in to support its claim that the  
20 proposed traffic configuration is reasonable. Blue Wave made the decision to pursue the zoning  
21 variance process while knowing that it still must comply with the terms of the Easement. It was  
22 Blue Wave’s decision to invest significant funds in a zoning overlay process without aligning with  
23 Plaintiffs on use of the Easement. Blue Wave cannot now claim unfairness in having to comply  
24 with the terms of the Easement.

### 25 **C. An injunction is warranted**

26 As set forth in the opening brief, injunctive relief is appropriate where, as here, a defendant's  
27 use of real property will interfere with plaintiff's property rights on a continuing basis because  
28

1 interference alone establishes irreparable injury. *See Aspen Grove Condo. Ass 'n v. CNL Income*  
2 *Northstar LLC*, 231 Cal.App.4th 53, 64 (2014). In other words, the interference with property rights  
3 — such as the Easement at issue here — is not compensable by monetary damages.

4 But in this case, more than mere property rights are at issue. The health and safety of a  
5 highly vulnerable population is before this Court: “Patient care is the core of DaVita’s business and  
6 harm to its patients certainly cannot be remedied by mere reimbursement of rent or lost revenue.”  
7 C. Johnson Suppl. Decl., ¶ 7. Monetary damages will not compensate patients who suffer serious  
8 negative health consequences — including the real prospect of increased risk of hospitalization or  
9 death — from the obstruction and delay resulting from Blue Wave’s proposed carwash.

10 Injunctive relief is appropriate to preserve the status quo, “defined to mean the last actual  
11 peaceable, uncontested status which preceded the pending controversy.” *14859 Moorpark*  
12 *Homeowner's Ass'n v. VRT Corp.*, 63 Cal. App. 4th 1396, 1408 (1998) (punctuation and citation  
13 omitted). Currently, there is no interference with use of the Easement; the Delta View Center’s  
14 patients have safe and reasonable access, ingress, and egress to the dialysis center. The Court should  
15 grant the preliminary injunction to protect the health and safety of DaVita’s patients pending full  
16 adjudication of this lawsuit.

### 17 III. CONCLUSION

18 For the reasons set forth above and those in Plaintiffs’ moving papers, this Court should  
19 grant the Preliminary Injunction.

20 Dated: September 25, 2025

FERGUSON LAW PC  
FERGUSON & BERLAND  
NOAH BERLAND

23 By: /s/ Sam Ferguson

24 Sam Ferguson  
25 Attorneys for Plaintiffs

1 **PROOF OF SERVICE**

2 *E. Leland Road Associates, LLC, et al. v. BW E Leland Pittsburg LLC*  
3 Superior Court of the State of California, Contra Costa County  
4 Case no. C25-01748

5 I declare that I am employed in the office of a member of the bar of this Court at whose  
6 direction the service was made, in the County of Alameda, State of California. I am over the age  
7 of 18, and not a party to this action. My business address is 1816 5<sup>th</sup> Street, Berkeley, CA 94710.  
8 On the date set forth below, I served the following document(s):

9 **REPLY IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION**

10 **DECLARATION OF GRANT JOHNSON IN SUPPORT OF PLAINTIFF’S REPLY IN**  
11 **SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION**

12 **SUPPLEMENTAL DECLARATION OF CLINTON JOHNSON IN SUPPORT OF**  
13 **PRELIMINARY INJUNCTION**

14 **DECLARATION OF SAM FERGUSON WITH EXHIBIT A**

15 On all interested parties in this action as follows:

16 **VIA [EMAIL]:**

17 Abram Petersen  
18 *apetersen@lubinolson.com*  
19 Michael Muzzy  
20 *mmuzzy@lubinolson.com*  
21 Lubin Olson & Niewiadomski LLP  
22 The Transamerica Pyramid  
23 600 Montgomery Street, 14<sup>th</sup> Floor  
24 San Francisco, CA 94111  
25 (415) 981-0550

26 *Attorneys for Defendant BW E Leland Pittsburg LLC*

27  (BY E-MAIL OR ELECTRONIC TRANSMISSION) Based on a court order or an agreement  
28 of the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be  
sent to the person(s) at the e-mail address(es) listed above. I did not receive, within a reasonable  
time after the transmission, any electronic message or other indication that the transmission was  
unsuccessful.

(BY MAIL) I am readily familiar with my firm’s practice for collection and processing of  
correspondence for mailing with the United States Postal Service, to-wit, that correspondence will  
be deposited with the United States Postal Service this same day in the ordinary course of business.  
I sealed said envelope(s) and placed it for collection and mailing on the date indicated below,  
following ordinary business practices.

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(BY FACSIMILE) I caused the aforementioned document(s) to be transmitted by Facsimile machine to the facsimile number(s) indicated for the person(s) identified above.

(BY FEDERAL EXPRESS) I caused the aforementioned envelope(s) to be delivered to Federal Express for overnight courier service to the address(es) listed above for the person(s) identified above.

(PERSONAL SERVICE) I caused the aforementioned envelope(s) to be delivered by hand to the address(es) listed above for the person(s) identified above.

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made. Executed on September 26, 2025 in Oakland, California.

/s/ Sam Ferguson  
Sam Ferguson

# **EXHIBIT 7**

**SUPPLEMENTAL DECLARATION OF CLINTON JOHNSON IN  
SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION**

1 Sam Ferguson (270957)  
sam@fergusonlawpc.com  
2 Katharine Kates (155534)  
katharine@fergusonlawpc.com  
3 FERGUSON LAW PC  
1816 5<sup>TH</sup> Street  
4 Berkeley, CA 94710  
Tel.: (510) 548-9005

5 William Berland (43879)  
bill@fergusonberland.com  
6 FERGUSON & BERLAND  
7 1816 5<sup>TH</sup> Street  
Berkeley, CA 94710  
8 Tel.: (510) 548-9005

9 Noah Berland (227018)  
noah@ndblaw.com  
10 1816 5<sup>th</sup> Street  
Berkeley, CA 94710  
11 Tel.: (510) 548-9005

12 Attorneys for Plaintiffs  
E. Leland Road Associates, LLC and Total Renal Care, Inc.

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 COUNTY OF CONTRA COSTA

15 E. LELAND ROAD ASSOCIATES,  
16 LLC, a California Limited-Liability  
Company, and TOTAL RENAL CARE,  
17 INC.

18 Plaintiffs,

19 v.

20 BW E LELAND PITTSBURG LLC,

21 Defendant.

Case No. C25-01748

**SUPPLEMENTAL DECLARATION OF  
CLINTON JOHNSON IN SUPPORT OF  
PRELIMINARY INJUNCTION**

Judge: Danielle K. Douglas

Dept: 18

Hearing: October 3, 2025

Time: 9:30 a.m.

Action Filed: June 20, 2025

1 I, Clinton Johnson, declare as follows:

2 1. In my declaration dated May 14, 2025, I outlined certain facts concerning the  
3 operations of DaVita’s Delta View Center and the negative impact that would result from an  
4 unreasonable inflow of traffic and congestion from the proposed Blue Wave Carwash (“Blue  
5 Wave”).

6 2. I have reviewed the Opposition to Plaintiffs’ Motion for a Preliminary Injunction  
7 (“Opposition”) filed by Blue Wave.

8 3. In my opinion, Blue Wave has inappropriately minimized the harm to DaVita and  
9 its patients that would be caused by an unreasonable interference and delay in the ability to access  
10 the Delta View Center.

11 4. Blue Wave has improperly characterized the harm to patients caused by their  
12 proposed car wash as merely “minor traffic delays a few times per week” and “delay or  
13 inconvenience.” Opp’n at 6. Blue Wave further states it is a “speculative leap for the Court to find  
14 that the inconvenience the patients may suffer will cause ‘irreparable’ harm to Plaintiffs” and that  
15 “any reasonable patient would simply tolerate minor increases in parking lot traffic.” *Id.* at 19.

16 5. It is not speculative that even minor delays in treatment cause irreparable harm to  
17 dialysis patients. It is well known among medical professionals and those that work in the dialysis  
18 industry that shortened treatments (i.e. when patients do not receive the full four hours prescribed  
19 by their nephrologist) can lead to significantly increased risks of hospitalization and even death  
20 for patients. The damage to a patients’ health caused by shortened or skipped treatments is  
21 cumulative and cannot be reversed.

22 6. Blue Wave also ignores the safety risks that would exist if its patients were forced  
23 to navigate a heavily congested and unsafe parking area in order to access the Delta View Center.  
24 As I stated in my first declaration, DaVita patients are a vulnerable population and many of them

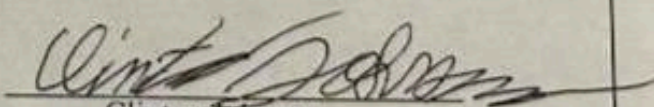
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1 are not independently mobile. They require significant extra time and support to enter the Delta  
2 View Center. I am very concerned that if Blue Wave was allowed to use the shared Easement for  
3 its car wash customers, there would be a great risk of accidents or injuries in the parking area.

4 7. Finally, I disagree with Blue Wave's assertions that harm to DaVita patients is not  
5 irreparable because it could only result in "loss of revenue or rent." (p. 19). DaVita is devoted to  
6 ensuring its patients' health and safety. Patient care is the core of DaVita's business and harm to  
7 its patients certainly cannot be remedied by mere reimbursement of rent or lost revenue.

8 8. The Delta View Center's operations depend on safe and efficient access to its  
9 facility. It is my opinion that Blue Wave's proposed use of the parking lot for its car wash  
10 customers will unreasonably interfere with these operations, including interfering with the  
11 Center's ability to provide optimal healthcare to its patients.

12  
13 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
14 true and correct. Executed on 9/25/2025 in Pittsburg, California.

15  
16   
17 Clinton Johnson

# **EXHIBIT 8**

**SUPPLEMENTAL DECLARATION OF GRANT JOHNSON IN  
SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION**

1 Sam Ferguson (270957)  
sam@fergusonlawpc.com  
2 Katharine Kates (155534)  
katharine@fergusonlawpc.com  
3 FERGUSON LAW PC  
1816 5<sup>TH</sup> Street  
4 Berkeley, CA 94710  
Tel.: (510) 548-9005

5 William Berland (43879)  
bill@fergusonberland.com  
6 FERGUSON & BERLAND  
1816 5<sup>TH</sup> Street  
7 Berkeley, CA 94710  
8 Tel.: (510) 548-9005

9 Noah Berland (227018)  
noah@ndblaw.com  
10 1816 5<sup>th</sup> Street  
11 Berkeley, CA 94710  
Tel.: (510) 548-9005

12 Attorneys for Plaintiffs  
E. Leland Road Associates, LLC and Total Renal Care, Inc.

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 COUNTY OF CONTRA COSTA

15 E. LELAND ROAD ASSOCIATES,  
16 LLC, a California Limited-Liability  
Company, and TOTAL RENAL CARE,  
17 INC.,

18 Plaintiffs,

19 v.

20 BW E LELAND PITTSBURG LLC

21 Defendant.

Case No. C25-01748

**DECLARATION OF GRANT JOHNSON IN  
SUPPORT OF PLAINTIFF'S REPLY IN  
SUPPORT OF MOTION FOR  
PRELIMINARY INJUNCTION**

Judge: Danielle K. Douglas  
Dept: 18  
Hearing: October 3, 2025  
Time: 9:30 a.m.

Action Filed: June 20, 2025

1 I, Grant Johnson, declare and state:

2 1. In my declaration dated June 16, 2025, I outlined my opinion that Blue Wave's  
3 proposed car wash will have a negative impact on the Delta View Center. I have been asked by  
4 Plaintiffs' counsel to review the declaration of Dalene J. Whitlock dated September 19, 2025,  
5 submitted in response to my original declaration.

6 2. I have reviewed Ms. Whitlock's declaration and disagree with her opinions.

7 3. As I explained in my opening declaration, Blue Wave's proposed car wash will  
8 unreasonably burden the Easement in two fundamental ways: by creating what amount to three  
9 new intersections with complicated turning movements mixed with parking, as well as  
10 significantly increasing the traffic on the Easement. This, in turn, is likely to delay or obstruct  
11 DaVita's patients from timely accessing their appointments, and thus compromise their care. It  
12 will also compromise emergency vehicle access.

13 4. I address Ms. Whitlock's critiques in turn:

14 ***Blue Wave's Proposed Site Design Creates Unsafe Conditions***

15 5. Ms. Whitlock critiques my original declaration regarding my observation that Blue  
16 Wave's proposed site design will turn the driveway into a street-like configuration. Her primary  
17 critique seems to be overly technical: that "street" is defined under the California Vehicle Code as  
18 a publicly maintained road. This critique ignores my real-world concern: Blue Wave's three new  
19 proposed uncontrolled intersections, combined with more traffic and significant parking conflicts,  
20 create hazardous conditions on the Easement.

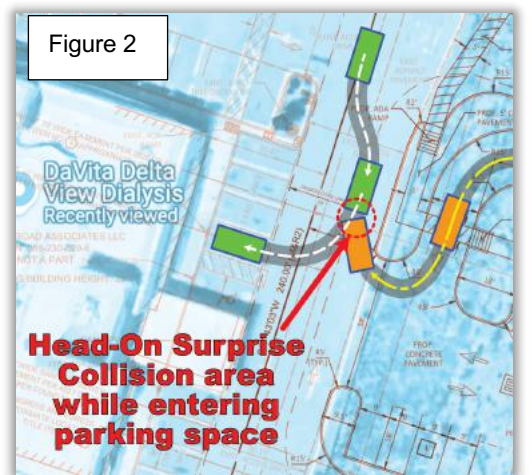
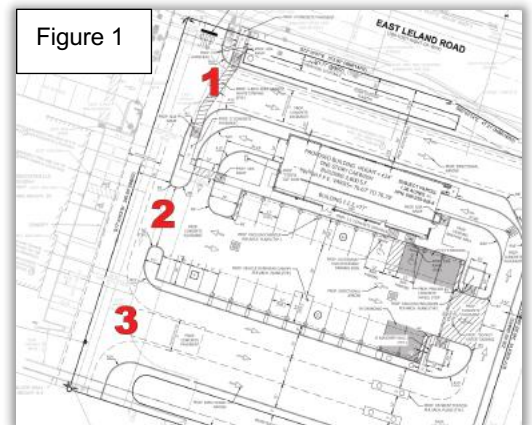
21 6. Sound traffic engineering requires an appropriate mix of design and a  
22 consideration of traffic flow. Neither variable can be considered in isolation. Poor design may  
23 decrease the number of vehicles that can safely traverse a road, whereas proper design can  
24 increase the number of vehicles that can safely traverse a road.

25 7. Ms. Whitlock appears to believe that Blue Wave's proposal for adding  
26 intersections to the Easement is similar to traffic configurations in any standard parking lot. I  
27 disagree.  
28

1           8.           It is my opinion that a parking lot can have simple traffic interactions or  
2 complicated ones. The simple interactions are those Ms. Whitlock describes as “*drivers must*  
3 *expect pedestrians to be present and to appear unexpectedly within the path of vehicle travel. On*  
4 *public roads, a driver’s attention is focused on other vehicles and traffic control devices. In a*  
5 *parking lot, the focus changes to scanning for pedestrians, maneuvering the aisles or finding*  
6 *parking.*” Whitlock Decl. ¶ 11. In my opinion, the car wash introduces additional design elements  
7 where three new intersections open up adjacent to existing handicap parking spaces. This  
8 introduces a complicated traffic dynamic that will create unsafe traffic conditions (see Figure 2)  
9 that go above and beyond those found in a simple parking lot (where the aisle is straight, has a  
10 beginning and an end, and has parking on both sides of the aisle).

11           9.           The new intersections create hazards  
12 for pedestrians not seen in the typical parking lot,  
13 especially at Intersection #2, which creates an  
14 entrance/exit point from the car wash operations  
15 directly across from Delta View Center parking,  
16 making it difficult for Delta View Center patients,  
17 visitors, and employees to park their cars (see Figure  
18 1).

19           10.          At Intersection #2, there are also  
20 movements in and out of the car wash and vacuum  
21 areas that will directly interfere with parking  
22 maneuvers from customers parked along the eastern  
23 side of the Delta View Center, potentially causing  
24 head-on collisions (see Figure 2).



1           11.       I also disagree with Ms. Whitlock’s assumption that under Blue Wave’s proposed  
2 design, car wash patrons will change their focus to “*scanning for pedestrians, maneuvering the*  
3 *aisles or finding parking.*” Whitlock Decl. ¶ 11. The proposed design here is significantly  
4 different than a parking aisle that one might find in a standard retail parking lot with parking on  
5 both sides, where drivers can be expected to slow down. I do not believe that all car wash patrons  
6 will significantly slow their vehicles while traversing the Easement. Unlike typical parking lot  
7 users who slow down to find parking, the car-wash patrons would not be traversing the Easement  
8 to look for parking. They would have a single destination in mind, i.e., the three-lane payment-  
9 queue driveway at the southern end of Blue Wave’s proposed site configuration. Because there  
10 are no parking spaces lining the east side of the Easement, there are limited visual cues to car  
11 wash patrons that they should slow down.

12           12.       Ms. Whitlock further states in paragraph 15 that an aisle “29 feet wide” (rather  
13 than 25 feet) “*is sufficient to accommodate two-way traffic operations for circulating vehicles,*”  
14 but this observation fails to note that Intersection #2 introduces turning movements into an  
15 intersection. Whitlock Decl. ¶ 15. While full access of 29 feet may be sufficient in the middle of a  
16 drive aisle in a regular parking lot, it is poor design to permit drivers to back into an active  
17 intersection. This creates direct conflict between car-wash drivers and Delta View Center patients  
18 entering or exiting their parking spots, as shown in Figure 2.

19           13.       The new intersections introduce safety concerns not seen in a typical parking lot.  
20 These safety concerns are even greater due to the vulnerable population served by the Delta View  
21 Center, many of whom use wheelchairs or need assistance walking.

22           14.       Parking conflicts created as a result of the new intersections proposed by Blue  
23 Wave will cause delays that may disrupt patients’ dialysis treatment schedules, which they  
24 depend on for life-saving care.

25           15.       Ms. Whitlock states the following: “*Johnson falsely equivocates the parking lot to*  
26 *a ‘street’ which involves different standards.*” Whitlock Decl. at 4:18.

1           16.       But the proposed car-wash access introduces several complicated and problematic  
2 (unsafe) traffic conditions where the average person will have difficulty properly responding to  
3 traffic conflicts. The traffic conflicts are more extensive than the conflicts in a typical parking lot  
4 aisle with parking on each side and a beginning and end that is distinct. These include:

- 5           • Maneuvers such as backing out of a parking space and potentially conflicting with  
6           outbound car-wash traffic while making a right turn outbound.
- 7           • Entering a handicap space while confronting a vehicle exiting the car wash in a potential  
8           head-on collision (as shown in Figure 2).

9           A normal parking lot would not include this design feature. These are the reasons that I compared  
10 this parking lot aisle to a street, i.e., that it “*resembles a street,*” or has a “*street-like*  
11 *configuration.*”

12           17.       Ms. Whitlock states in several paragraphs that the site configuration and  
13 circulation pattern is no different from a typical parking lot and presents no safety concerns  
14 different from any parking lot and states several times that there are no “intersections” in the  
15 parking lot. Whitlock Decl. ¶¶ 12, 14, 18, 20. As stated above, I disagree.

16           18.       The intersections proposed in Blue Wave’s design are particularly problematic. An  
17 intersection can be signalized, can be sign controlled, or have no traffic control. An intersection  
18 without traffic control is called an uncontrolled intersection. Such intersections require a 15-mph  
19 speed limit. This comes from guidance from the California Department of Motor Vehicles,<sup>1</sup>  
20 which states that “*An intersection is considered blind if it has no stop signs at any corner. If your*  
21 *view is blocked, move slowly forward until you can see. The speed limit for a blind intersection is*  
22 *15 mph.*” But given that there are limited visual cues in the Easement to encourage drivers to slow  
23 down, and given that car-wash patrons must traverse the entire Easement to enter the car wash, I  
24 would expect car-wash patrons to routinely exceed 15 mph. Even speeds of 15 mph, however,  
25 would present unsafe conditions for a busy parking lot with pedestrians present.

26  
27  
28 <sup>1</sup> <https://www.dmv.ca.gov/portal/handbook/california-driver-handbook/laws-and-rules-of-the-road-cont1/>

1           19.       Ms. Whitlock, again, relies on an overly technical definition of “intersection” in  
2 arguing that there are no intersections proposed by Blue Wave, because an “intersection” (in her  
3 view) only exists between “highways,” which are publicly maintained. Whitlock Decl. ¶ 10, . As  
4 a result, she disagrees with my analysis of the problematic maneuvers that are encouraged  
5 because of the poor design proposed by Blue Wave. I believe she ignores my real-world concerns  
6 of Blue Wave’s proposed design. Blue Wave’s new proposed entrances/exits adjoining the  
7 Easement (regardless of whether you call them “intersections” or something else) are likely to  
8 create conflicts, and thus compromise DaVita’s patient access and safety. There is no reason why  
9 two roads crossing should be considered a blind intersection if it is publicly maintained, but not a  
10 blind-intersection if it is on private property.

11           **Blue Wave’s Proposed Design Compromises Pedestrian Safety**

12           20.       Ms. Whitlock states in paragraph 21 that “*Delta View Center patients are most*  
13 *likely to park within the spaces located between the Delta View Center building and E. Leland*  
14 *Road or along the western side of the Easement abutting the dialysis facility,” and “Therefore,*  
15 *traffic volumes and vehicle movements from the car wash would not impede patients’ ability to*  
16 *safely travel to and from their vehicles since there would be little to no conflicts between patients*  
17 *walking to and from the dialysis facility and vehicles using the Carwash.”* Whitlock Decl. ¶ 21.

18           21.       However, there will undoubtedly be conflicts between car-wash patrons and Delta  
19 View Center patients for two reasons.



1           22.       First, the front of the dialysis clinic (which is marked by a large blue DaVita logo  
2 in Figure 3) is on the eastern side of the building. This undoubtedly encourages patrons to park in  
3 the spaces on the eastern side of the building (at the left of the the building in Figure 3), not the  
4 northern side of the building abutting East Leland Road (at the right of Figure 3). This will draw  
5 customers into the Easement directly across from Intersection #2, where car-wash patrons exit the  
6 car wash.

7           23.       Second, all cars that are unable to make a westbound left U-Turn at East Leland  
8 Road and Dias Circle (due to the tight turning radius of that movement) will need to cross the  
9 northern parking lot by entering into the northwest driveway and continue to the Easement by  
10 traversing the existing Delta View Center north parking lot which has 16 parking spaces. This  
11 creates additional conflicts, contrary to Ms. Whitlock’s testimony that “*traffic volumes and*  
12 *vehicle movements from the car wash would not impede patients’ ability to safely travel to and*  
13 *from their vehicles.*” Whitlock Decl. ¶ 13.

14           **Other Possible Uses are a Red Herring**

15           24.       Ms. Whitlock states that the car wash is expected to generate fewer trips than other  
16 permitted uses, such as a hypothetical coffee shop or fast-food establishment. She states,  
17 “*However, this 1.36-acre vacant parcel is sufficiently large to fit both a coffee shop and a fast-*  
18 *food restaurant, which would result in 338 peak-hour trips without requiring a conditional use*  
19 *permit.*” Whitlock Decl. ¶ 8.

20           25.       This hypothetical envisions a scenario where Ms. Whitlock has cherry picked the  
21 most intense trip-generating establishment (fast food) and installed it on the 1.36-acre site (i.e.  
22 Parcel A). The most likely alternative use — a strip retail plaza — would generate only 6.59 trips  
23 per 1000 square feet according to the ITE Trip Generation Manual, 11<sup>th</sup> ed., or about 97 pm peak  
24 hour trips (less than the project’s trip generation of 110 trip ends). This is calculated by the  
25 following formulas: 1.36 acres \* 43560 sqft/ac = 59241 sqft. 59241 sq ft \* 25% coverage =  
26 14810 sq ft. retail per 1.36 acres. 14810 sqft strip retail \* 6.59 trips/1000 sqft = 97.6 trips.



# **EXHIBIT 9**

## **DECLARATION OF SAM FERGUSON IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION**

1 Sam Ferguson (270957)  
sam@fergusonlawpc.com  
2 Katharine Kates (155534)  
katharine@fergusonlawpc.com  
3 FERGUSON LAW PC  
1816 5<sup>TH</sup> Street  
4 Berkeley, CA 94710  
Tel.: (510) 548-9005

5 William Berland (43879)  
bill@fergusonberland.com  
6 FERGUSON & BERLAND  
7 1816 5<sup>TH</sup> Street  
Berkeley, CA 94710  
8 Tel.: (510) 548-9005

9 Noah Berland (227018)  
noah@ndblaw.com  
10 1816 5<sup>th</sup> Street  
Berkeley, CA 94710  
11 Tel.: (510) 548-9005

12 Attorneys for Plaintiffs  
E. Leland Road Associates, LLC and Total Renal Care, Inc.

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 COUNTY OF CONTRA COSTA

15 E. LELAND ROAD ASSOCIATES,  
16 LLC, a California Limited-Liability  
Company, and TOTAL RENAL CARE,  
17 INC.,

18 Plaintiffs,

19 v.

20 BW E LELAND PITTSBURG LLC

21 Defendant.

Case No. C25-01748

**DECLARATION OF SAM FERGUSON  
WITH EXHIBIT A**

Judge: Danielle K. Douglas  
Dept: 18  
Hearing: October 3, 2025  
Time: 9:00 a.m.

Action Filed: June 20, 2025

1 I, Sam Ferguson, declare as follows:

2 1. I am a member in good standing of the California Bar, and an attorney at Ferguson  
3 Law PC, which is counsel of record for Plaintiffs in the above-captioned matter, in conjunction  
4 with Ferguson & Berland and Noah Berland. Except as to those matters stated on information and  
5 belief, I have personal knowledge of the matters stated herein and could and would competently  
6 testify thereto if called upon to do so. As to those matters stated on information and belief, I am  
7 informed and believe them to be true.

8 2. Attached hereto as **Exhibit A** is a true and correct copy of Saran et al,  
9 “Nonadherence in hemodialysis: Association with mortality, hospitalization, and practice patterns  
10 in DOPPS,” *Kidney International*, Vol. 64 (2003), pp. 254–262.

11 I declare under penalty of perjury under the laws of the state of California that the forgoing  
12 is true and correct. Executed in Oakland, California on September 25, 2025.

13   
14 \_\_\_\_\_  
15 Sam Ferguson

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# Exhibit A

# Nonadherence in hemodialysis: Associations with mortality, hospitalization, and practice patterns in the DOPPS

RAJIV SARAN, JENNIFER L. BRAGG-GRESHAM, HUGH C. RAYNER, DAVID A. GOODKIN, MARCIA L. KEEN, PAUL C. VAN DIJK, KIYOSHI KUROKAWA, LUIS PIERA, AKIRA SAITO, SHUNICHI FUKUHARA, ERIC W. YOUNG, PHILIP J. HELD, and FRIEDRICH K. PORT

Division of Nephrology, University of Michigan, Ann Arbor, Michigan; University Renal Research and Education Association, Ann Arbor, Michigan; Birmingham Heartlands Hospital, Birmingham, United Kingdom; Amgen, Inc., Thousand Oaks, California; European Renal Association-European Dialysis and Transplant Association Registry, Amsterdam, The Netherlands; Tokai University, Kanagawa, Japan; Hospital General Vall d'Hebron, Barcelona, Spain; Kyoto University, Kyoto, Japan; and Department of Veterans Affairs Medical Center, Ann Arbor, Michigan

## Nonadherence in hemodialysis: Associations with mortality, hospitalization, and practice patterns in the DOPPS.

**Background.** Nonadherence among hemodialysis patients compromises dialysis delivery, which could influence patient morbidity and mortality. The Dialysis Outcomes and Practice Patterns Study (DOPPS) provides a unique opportunity to review this problem and its determinants on a global level.

**Methods.** Nonadherence was studied using data from the DOPPS, an international, observational, prospective hemodialysis study. Patients were considered nonadherent if they skipped one or more sessions per month, shortened one or more sessions by more than 10 minutes per month, had a serum potassium level of  $>6.0$  mEq/L, a serum phosphate level of  $>7.5$  mg/dL ( $>2.4$  mmol/L), or interdialytic weight gain (IDWG)  $>5.7\%$  of body weight. Predictors of nonadherence were identified using logistic regression. Survival analysis used the Cox proportional hazards model adjusting for case-mix.

**Results.** Skipping treatment was associated with increased mortality [relative risk (RR) = 1.30,  $P = 0.01$ ], as were excessive IDWG (RR = 1.12,  $P = 0.047$ ) and high phosphate levels (RR = 1.17,  $P = 0.001$ ). Skipping also was associated with increased hospitalization (RR = 1.13,  $P = 0.04$ ), as were high phosphate levels (RR = 1.07,  $P = 0.05$ ). Larger facility size (per 10 patients) was associated with higher odds ratios (OR) of skipping (OR = 1.03,  $P = 0.06$ ), shortening (OR = 1.03,  $P = 0.05$ ), and IDWG (OR = 1.02,  $P = 0.07$ ). An increased percentage of highly trained staff hours was associated with lower OR of skipping (OR = 0.84 per 10%,  $P = 0.02$ ); presence of a dietitian was associated with lower OR of excessive IDWG (OR = 0.75,  $P = 0.08$ ).

**Conclusion.** Nonadherence was associated with increased mortality risk (skipping treatment, excessive IDWG, and high phosphate) and with hospitalization risk (skipping, high phosphate). Certain patient/facility characteristics also were associated with nonadherence.

**Key words:** nonadherence, noncompliance, DOPPS, outcomes, hemodialysis, skipping treatments.

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Hemodialysis is a lifesaving but complex therapy. It makes enormous demands on patients with end-stage renal disease (ESRD), thereby affecting their quality of life [1]. Adherence to complicated treatment regimens associated with hemodialysis is vital. The definition of nonadherence and its assessment have both proven controversial [2, 3]. However, by compromising the delivery of dialysis, nonadherence can affect both patient morbidity and mortality, a finding that is well recognized [4].

It has been known for some time that survival of ESRD patients is better in Europe and Japan in comparison with the United States after adjustments for age, gender, and diabetes mellitus [5]. Reasons for these differences are unclear. Differences in practice patterns may provide one explanation. A detailed examination of practice patterns has been undertaken in the Dialysis Outcomes and Practice Patterns Study (DOPPS), an international, observational, prospective hemodialysis study initiated between 1996 and 1999 [6]. In addition to practice patterns, patient behavior and adherence to prescribed treatment may be other determinants of outcomes. A few studies have looked at the effect of nonadherence on outcomes, but these have been based mainly on patients from the United States, used a limited set of variables, utilized relatively small sample sizes, and have not always measured the long-term consequences of nonadherence. Two studies have shown that nonadherence to the hemodialysis regimen is associated with an increased risk of death [7, 8]. One study has addressed international comparisons of nonadherence in hemodialysis with a descriptive approach [9], based on questionnaires mailed to health professionals caring for hemodialysis patients in different countries; associations with patient outcomes were not examined.

The present study was based on the hypothesis that facilities with lower nonadherence rates are likely to

manifest lower mortality and fewer hospitalizations. It was designed to provide an international perspective on the magnitude, distribution, and predictors of nonadherence (both at patient and facility level).

## METHODS

### Data source

The patient sample was drawn from the DOPPS database, which includes information about hemodialysis patients in Japan, the United States, and five European countries (France, Germany, Italy, Spain, and the United Kingdom, collectively referred to as Euro-DOPPS). A nationally representative sample of dialysis facilities was enrolled in each country, followed by selection of a random sample of hemodialysis patients at each participating center. The study design and data collection instruments were uniform across nations. Data on nonadherence were collected at each dialysis facility by a center-based research coordinator. Details of study design, facility sampling, patient sampling, and data collection have been published previously [10].

A data validation study was carried out in all five European countries by the contracting research organization (CRO) in Europe. The CRO extracted data from a sample of dialysis facilities, which was compared with the data extracted by the staff at those facilities. While a formal data validation has not been conducted for the United States facilities, the values for age, diabetes mellitus as a primary cause of ESRD, and proportion of female and African American patients in the United States-DOPPS sample are very similar to the values reported for the 1997 United States population of in-center hemodialysis patients by the United States Renal Data System (USRDS) [11], suggesting that the United States-DOPPS data are indeed representative of the United States ESRD population.

The current study reflects data obtained from the United States (145 facilities, 3359 patients), Euro-DOPPS (101 facilities, 2337 patients), and Japan (65 facilities, 1980 patients). An average of 30 adult chronic hemodialysis patients (age >17 years) participated from each facility. Study patients who departed from a facility were periodically replaced with patients who started hemodialysis treatment at the facility. Data collection began in the United States in June 1996, in Europe in May 1998, and in Japan in February 1999. For the mortality analyses, patients were followed until January 2002 in the United States, November 2000 in Europe, and October 2001 in Japan. Data were collected using a standardized chart abstraction procedure performed by a facility-based coordinator at each dialysis center. Data included demographic characteristics and comorbid conditions. For this analysis, data from an initial cross section of patients (i.e., prevalent patients) were used. Follow-up

information was obtained approximately every 4 months, including dates, diagnoses, and procedures associated with each hospitalization.

### Measures of nonadherence

The patient measures of nonadherence used in this study are skipping one or more dialysis sessions in 1 month, shortening one or more dialysis sessions by more than 10 minutes in 1 month, serum potassium concentration of >6.0 mEq/L, phosphate level of >7.5 mg/dL, or interdialytic weight gain (IDWG) >5.7% of body weight (the last cut-off was based on a >4 kg IDWG in a 70 kg patient). IDWG was obtained using the intradialytic weight loss, with the assumption that all the weight gained in the interdialytic interval was lost during the dialysis session. These definitions are identical to those used in a prior publication from a USRDS special study [8]. A session missed because of hospitalization was not considered nonadherence. IDWG was estimated using the amount of weight removed during a hemodialysis session and was expressed as the percentage of body weight removed. The prevalence of each adherence measure was calculated for the initial round of patients at time of entry into the study. Skipping and shortening status were evaluated for the 30 days prior to enrollment into the DOPPS. IDWG was calculated from the most recent hemodialysis treatment before enrollment, and potassium and phosphorus measurements were those obtained on or before the enrollment date.

Practice pattern and mortality models included all patients enrolled and used data at the time of their entry into the study.

### Statistical analysis

The prevalence of each nonadherence measure was calculated in each participating continent for the initial cross section of prevalent patients entering the study. To avoid the influence of residual renal function on urine output and, hence, IDWG, patients who had been on dialysis for less than 90 days were removed from the prevalence calculations, and adjustments were made in all models for patients who had been on hemodialysis for less than 1 year. Linear mixed models were used to compare the prevalence of each nonadherence measure among the continents, taking into account facility clustering. The nonadherence measures of IDWG, potassium, and phosphate were adjusted for the day of the week of the blood draw. All patients were adjusted to a Wednesday blood draw value to ensure comparability.

Predictors of nonadherence were identified using logistic regression. Model specification included age, race, ethnicity, gender, diabetic ESRD, depression (presence or absence of a diagnosis of depression in the past 12 months was obtained from the DOPPS Medical Ques-

tionnaire), facility size, years on dialysis, smoking, education, living status, marital status, employment, and prior failed transplantation. These models also took into account facility clustering. The results were expressed as adjusted odds ratios.

Cox proportional hazards models were used to express the strength of the relationship between each measure of nonadherence and both mortality and hospitalization. Mortality models examined time to death, while hospitalization models examined time to first hospitalization after enrollment into the study. Adjustments were made for the same variables used in the logistic regression analysis and were supplemented with 15 summary comorbid conditions (diabetes, coronary heart disease, congestive heart failure, other cardiovascular diseases, hypertension, cerebrovascular disease, peripheral vascular disease, lung disease, cancer, HIV/AIDS, gastrointestinal bleed, neurologic disease, psychiatric disorder, cellulitis/gangrene, and dyspnea) and facility clustering effects. Cox models were stratified by continent. Facility clustering effects were addressed using robust standard estimates based on the sandwich estimator [12]. A separate model was determined for each measure of nonadherence, as was a model that included all five nonadherence measures. For measuring the association between hyperphosphatemia and mortality, intact parathyroid hormone (PTH) levels were included in the model, as phosphate levels could, in part, reflect underlying hyperparathyroidism. The median follow-up time in each continent was as follows: Euro-DOPPS = 1.8 years, Japan = 2.0 years, and the United States = 2.9 years.

Logistic regression also was employed to investigate the relationship between facility practice patterns and patient nonadherence. Practice patterns investigated included facility size, percentage of highly trained staff hours in relation to direct patient care staff hours, percentage of highly trained staff (defined as having 2 or more years of formal nursing training), presence of a dietitian in the unit, and physician/patient contact time (minutes/month). These models were adjusted for the list of comorbid conditions previously described, as well as for the predictors of nonadherence variables and continent of residence. Models took into account facility clustering. All analyses were carried out using SAS version 8.2 [13]. A *P* value of <0.05 was considered to indicate statistical significance.

## RESULTS

### Patient demographics

There were 14,930 patients available for analysis (8396 United States, 4075 Euro-DOPPS, and 2459 Japanese hemodialysis patients). The patient numbers for the initial cross section sampled were Euro-DOPPS = 2337, Japan = 1980, and the United States = 3359, for a total

of 7676 patients used in the predictors of nonadherence analysis; the full sample was used for the mortality and practice pattern analyses. The demographic profile of the initial cross section of patients is given in Table 1. The proportion of African Americans was higher in the United States (33.5%) compared with Euro-DOPPS (1.6%) and Japan (0%). While the age groups were quite similar across nations, all comorbid conditions, except smoking and other cardiac conditions, were more prevalent in the United States. Employment status for those 18 to 60 years old was highest for Japan (51.1%) and lowest for the United States (13.7%); disability rates were lowest for Japan (4.9%) and higher for the United States (25.5%) and Euro-DOPPS (20.3%). The proportion of nursing home residents was highest for the United States (8.1%), and equivalent for Euro-DOPPS (2.3%) and Japan (2.6%). The percentage of married patients was highest for Japan (70.7%) versus 63.5% for Euro-DOPPS and 47.5% for the United States. Time on ESRD was longest for Japan ( $6.9 \pm 6.5$  years).

### Distribution of nonadherence measures

Table 2 shows the prevalence of each parameter of nonadherence studied. In the United States, 7.9% of patients skipped one or more hemodialysis sessions/month compared with only 0.6% in Euro-DOPPS and 0.6% in Japan. Similarly, more United States patients shortened a hemodialysis session by 10 minutes or more in a month (19.6%) compared with 9.8% in Euro-DOPPS and 5.7% in Japan. For patients with excessive IDWG, the distribution was highest in Japan (34.5%) compared with 16.8% in the United States and 11.0% in Euro-DOPPS. Hyperphosphatemia  $\geq 7.5$ g/dL was present among 15.4% of patients in the United States, 12.8% in Euro-DOPPS, and 12.1% in Japan. Finally, hyperkalemia of  $>6.0$  mEq/L was seen more commonly in Euro-DOPPS (20.0%) than in Japan (7.6%) or the United States (6.3%).

### Patient level predictors of nonadherence

Table 3 shows the results from logistic regression analyses of possible predictors of the presence of nonadherence among the hemodialysis populations studied. Analyses adjusted for all factors in this table, as well as for those in Table 1, including Kt/V and comorbidities. Predictors of higher odds of nonadherence included younger age (for skipping, shortening, excessive IDWG, and hyperphosphatemia), female gender (for IDWG), African American race (for skipping and shortening), employed status (hyperphosphatemia), living alone (hyperphosphatemia), smoking status (skipping and IDWG), depression (skipping and shortening), marital status (hyperphosphatemia), and time on ESRD (shortening, IDWG, and hyperkalemia). In addition, there exists a high degree of correlation among different measurements of

**Table 1.** Patient characteristics

Characteristic	Euro-DOPPS	Japan	United States	Overall
<b>Demographics</b>				
Age years (mean, SD)	60.1 (15.2)	58.9 (12.5)	60.8 (15.8)	60.3 (15.2)
Male %	59.7	62.4	55.1	57.5
African American %	1.6	0.0	33.5	19.8
Hispanic %	0.0	0.0	9.4	5.4
<b>Comorbidities %</b>				
Coronary heart disease	29.3	20.5	49.1	39.4
Congestive heart failure	25.1	8.8	45.9	34.6
Other cardiac conditions	34.2	24.6	32.1	31.5
Hypertension	76.4	57.0	82.8	77.0
Peripheral vascular disease	21.7	12.1	25.9	22.6
Cardiovascular disease	12.6	13.0	18.9	16.3
Diabetes <sup>a</sup>	22.6	27.9	49.1	38.8
Lung disease	10.0	1.5	13.9	10.9
Cancer (other than skin)	10.3	5.9	10.7	9.8
HIV/AIDS	0.1	0.0	1.3	0.8
Gastrointestinal bleeding	5.9	4.1	8.5	7.1
Neurologic disease	5.9	5.0	10.8	8.6
Psychiatric disorder	22.8	2.9	25.6	21.3
Recurrent cellulitis	5.5	2.5	9.8	7.5
Dyspnea	21.0	4.0	34.1	26.0
Smoking	19.6	26.5	21.1	21.6
<b>Employment status<sup>b</sup> %</b>				
Employed	27.7	51.1	13.7	24.1
Disabled	20.3	4.9	25.5	20.4
<b>Education %</b>				
Less than 12 years	52.7	20.1	26.8	32.6
Some college	10.8	9.9	19.6	15.7
<b>Living status %</b>				
Alone	14.7	9.6	15.7	14.5
Friends/family	83.0	87.5	75.8	79.5
Nursing home	2.3	2.6	8.1	5.7
Homeless/prisoner	0.0	0.3	0.4	0.3
Married %	63.5	70.7	47.5	55.4
Prior kidney transplant %	11.1	1.4	4.9	6.0
Time on ESRD years (mean, SD)	3.84 (5.4)	6.86 (6.5)	1.9 (3.3)	3.2 (4.9)
Average Kt/V single pool (mean, SD)	1.29 (0.31)	1.32 (0.28)	1.31 (0.30)	1.31 (0.30)

ESRD is end-stage renal disease.

<sup>a</sup>Primary or contributing<sup>b</sup>Age <60 years**Table 2.** Distribution of nonadherence measures by continent

Nonadherence measure	Patients %			
	Euro-DOPPS	Japan	United States	Overall
Skipped $\geq$ 1 hemodialysis session/month <sup>a</sup>	0.6	0.6	7.9	3.8
Shortened session by $\geq$ 10 minutes <sup>b</sup>	9.8	5.7	19.6	13.0
IDWG > 5.7% of dry weight	11.0	34.5	16.8	19.6
PO <sub>4</sub> > 7.5 g/dL	12.8	12.1	15.4	13.7
K > 6 mEq/L	20.0	7.6	6.3	10.8

IDWG is interdialytic weight gain.

<sup>a</sup>One session skipped ( $N = 136$ ) (46.6%); two sessions skipped ( $N = 67$ ) (23.0%); and three or more sessions skipped ( $N = 89$ ) (30.4%)<sup>b</sup>One session shortened ( $N = 370$ ) (37.0%); two sessions shortened ( $N = 231$ ) (23.1%); and three or more sessions shortened ( $N = 399$ ) (39.9%)

nonadherence (Table 4). For any given measure of nonadherence, the odds of any other measure of nonadherence were greater than 1.0 and the majority of these odds ratios (OR) were statistically significant. The highest correlation was seen between shortening and skipping hemodialysis sessions (OR = 4.91;  $P < 0.05$ ).

### Correlates of nonadherence with mortality

Table 5 shows the relative risk (RR) of mortality for each of the five measures of nonadherence for all DOPPS countries. Skipping one or more dialysis sessions a month (versus not skipping) was associated with a relative mortality risk of 1.30 ( $P = 0.01$ ). The relative mortality risks

**Table 3.** Factors associated with nonadherence<sup>a</sup>

Characteristic	Odds ratios (OR) by nonadherence measure				
	Skip	Shorten	IDWG	PO <sub>4</sub>	K
<b>Demographics</b>					
Age (per 10 years)	0.87 <sup>b</sup>	0.93 <sup>b</sup>	0.85 <sup>b</sup>	0.75 <sup>b</sup>	0.99
Male (vs. female)	1.00	0.96	0.82 <sup>b</sup>	0.99	1.03
African American (vs. non-African American)	2.11 <sup>b</sup>	1.31 <sup>b</sup>	0.89	0.76 <sup>b</sup>	0.78 <sup>b</sup>
Hispanic (vs. non-Hispanic)	1.26	1.21	1.12	1.08	1.03
<b>Employment status</b>					
Employed	1.16	0.95	0.92	1.21 <sup>b</sup>	1.05
Disabled	1.00	1.00	1.00	1.00	1.00
Unemployed and not disabled (reference)	1.00	1.31 <sup>b</sup>	1.31 <sup>b</sup>	1.04	1.12
<b>Education</b>					
Less than 12 years	1.31	1.13	1.02	1.07	1.09
12 years (reference)	1.00	1.00	1.00	1.00	1.00
Some college	0.98	0.99	1.01	0.93	0.87
<b>Living status</b>					
Alone	1.09	1.07	1.01	1.22 <sup>b</sup>	0.95
Friends/family (reference)	1.00	1.00	1.00	1.00	1.00
Nursing home	0.53 <sup>b</sup>	1.15	1.18	0.79	1.14
Homeless/prisoner	1.36	0.82	0.80	1.32	—
<b>Smoker (yes vs. no)</b>					
Depressed (yes vs. no)	1.53 <sup>b</sup>	1.14	1.43 <sup>b</sup>	1.10	0.96
Married (yes vs. no)	1.62 <sup>b</sup>	1.22 <sup>b</sup>	0.96	0.99	0.98
Prior kidney transplant (yes vs. no)	0.90	0.93	0.92	1.21 <sup>b</sup>	1.03
Time on ESRD (per year)	0.79	0.82	0.86	0.91	1.08
Time on ESRD (per year)	1.02	1.05 <sup>b</sup>	1.07 <sup>b</sup>	0.99	1.03 <sup>b</sup>

ESRD is end-stage renal disease; IDWG is interdialytic weight gain.

<sup>a</sup> Adjusted for continent of residence and all factors listed here and in Table 4

<sup>b</sup> *P* < 0.05

**Table 4.** Associations of nonadherence<sup>a</sup>

Characteristic	Odds ratios (OR) by nonadherence measure				
	Skip	Shorten	IDWG	PO <sub>4</sub>	K
Skipped ≥ 1 hemodialysis session/month	—	4.36 <sup>b</sup>	1.40 <sup>b</sup>	1.37 <sup>b</sup>	1.14
Shortened session by ≥ 10 minutes	4.91 <sup>b</sup>	—	1.56 <sup>b</sup>	1.59 <sup>b</sup>	1.16
IDWG > 5.7% of dry weight	1.33	1.53 <sup>b</sup>	—	1.36 <sup>b</sup>	2.31 <sup>b</sup>
PO <sub>4</sub> > 7.5 mg/dL	1.36 <sup>b</sup>	1.51 <sup>b</sup>	1.35 <sup>b</sup>	—	2.14 <sup>b</sup>
K > 6 mEq/L	1.21	1.11	2.30 <sup>b</sup>	2.12 <sup>b</sup>	—

IDWG is interdialytic weight gain.

<sup>a</sup> Adjusted for continent of residence and all factors listed here and in Table 3. This table does not represent a correlation matrix but instead presents the results from five different logistic regression models.

<sup>b</sup> *P* < 0.05

**Table 5.** The relative risk (RR) of mortality and first hospitalization by nonadherence measures

Nonadherence measure	RR of mortality (95% CI)		RR of hospitalization (95% CI)	
	Univariate adjusted <sup>a</sup>	Multivariate adjusted <sup>b</sup>	Univariate adjusted <sup>a</sup>	Multivariate adjusted <sup>b</sup>
Skipped ≥ 1 hemodialysis session/month	1.33 (1.09–1.63)	1.30 (1.06–1.59)	1.16 (1.02–1.32)	1.13 (1.01–1.28)
Shortened session by ≥ 10 minutes	1.14 (0.99–1.30)	1.11 (0.97–1.27)	1.10 (1.00–1.21)	1.09 (0.99–1.19)
IDWG > 5.7% of dry weight	1.14 (1.01–1.28)	1.12 (1.00–1.26)	1.00 (0.92–1.08)	1.00 (0.92–1.08)
PO <sub>4</sub> > 7.5 g/dL	1.19 (1.09–1.30)	1.17 (1.07–1.28)	1.07 (1.00–1.14)	1.07 (1.00–1.14)
K > 6 mEq/L	1.12 (1.00–1.26)	1.09 (0.97–1.22)	0.96 (0.88–1.05)	0.96 (0.88–1.05)

IDWG is interdialytic weight gain.

<sup>a</sup> Adjusted for factors listed in Table 1 and country (used as strata variable in the Cox model)

<sup>b</sup> Adjusted for factors listed in Table 1, other nonadherence measures, and country (used as strata variable in the Cox model)

for excessive IDWG and for phosphate levels >7.5 mg/dL were 1.12 (*P* = 0.05) and 1.17 (*P* = 0.001), respectively. The RR for the association between mortality and hyperphosphatemia increased to 1.27 (*P* = 0.0001) following adjustment for intact PTH levels. The RR associated with shortening dialysis treatments (RR = 1.11;

*P* = 0.14) and hyperkalemia (RR = 1.09; *P* = 0.14) were not statistically significant. The measures of nonadherence were independently associated with higher mortality. The presence of comorbid conditions showed a significant increase in mortality, as did lower dialysis dose.

**Table 6.** Practice patterns associated with nonadherence measures<sup>a</sup>

Practice pattern (individual models)	Odds ratio		
	Skip	Short	IDWG
Facility size			
Per 10 patients	1.03 <sup>b</sup>	1.03 <sup>c</sup>	1.02 <sup>b</sup>
Facility > 60 patients (vs. ≤ 60 patients)	1.77 <sup>c</sup>	1.30	0.97
Facility > 75 patients (vs. ≤ 75 patients)	1.50 <sup>b</sup>	1.57 <sup>c</sup>	1.03
Facility > 125 patients (vs. ≤ 125 patients)	1.15	1.07	1.43 <sup>c</sup>
% Highly trained staff hours (per 10%)	0.84 <sup>c</sup>	0.94	1.04
% Highly trained staff (per 10%)	0.89 <sup>b</sup>	1.00	1.04
Dietitian in unit (yes/no)	1.22	1.07	0.75 <sup>b</sup>
Physician contact time (per 10 min/month)	0.97	0.99	1.01 <sup>c</sup>

IDWG is interdialytic weight gain.

<sup>a</sup>Adjusted for variables in Table 1, country, and facility clustering

<sup>b</sup>0.05 < *P* = 0.10

<sup>c</sup>*P* = 0.05

### Correlates of nonadherence with hospitalization

Table 5 also shows the RR for hospitalization (modeled as time to first hospitalization after entering the study) for each of the five measures of nonadherence for all DOPPS countries. Skipping one or more dialysis sessions a month (versus not skipping) was associated with a RR of 1.13 (*P* = 0.04) for hospitalization. For phosphate levels >7.5 mg/dL the RR was 1.07 (*P* = 0.05). The RR results for shortening dialysis treatments (RR = 1.09; *P* = 0.09), excessive IDWG (RR = 1.00; *P* = 0.91), and hyperkalemia (RR = 0.96; *P* = 0.34) were not statistically significant.

### Correlates of nonadherence with facility practice patterns

Dialysis facility size and certain facility practice patterns were found to be significantly associated with nonadherence measures (Table 6). Larger facility size (per 10 more hemodialysis patients) was associated with an increased likelihood of skipping (OR = 1.03, *P* = 0.06), shortening (OR = 1.03, *P* = 0.05), and IDWG (OR = 1.02, *P* = 0.07). When looking for an optimum facility size, it was found that the risk of skipping significantly increased at a facility size of >60 patients (OR = 1.77, *P* = 0.001; reference group facility size <60 patients). The odds of shortening sessions increased significantly in facilities with more than 75 patients (OR = 1.57, *P* = 0.006; reference group facility size <75 patients), while the odds for excessive IDWG went up significantly at a facility size of 125 patients or more (OR = 1.45, *P* = 0.03; reference group facility size <125 patients). For a 10% increase in highly trained staff hours, there was a decrease in the likelihood of skipping (OR = 0.84, *P* = 0.02). Odds of skipping were 11% lower for every 10% increase in highly trained staff in the unit (OR = 0.89, *P* = 0.06). The presence of a dietitian in the facility was associated with a lower likelihood of nonadherence in terms of IDWG (OR = 0.75, *P* = 0.08), while a positive

association was seen between IDWG and physician/patient contact time (OR = 1.01 per 10 minutes/month, *P* = 0.05).

### DISCUSSION

Hemodialysis places multiple and unavoidable demands on a patient's lifestyle, related to the dialysis regimen, dietary and fluid restrictions, the requirement for multiple medications with potential side effects, as well as management of multiple comorbid conditions. Nonadherence with various aspects of management is not uncommon and is understandable from the patient's perspective. Quantification of the degree of nonadherence is clearly required to understand the impact of treatment on a patient's life. But solutions to this problem are difficult, and multiple aspects of therapy have to be addressed [4]. However, consensus does not exist as to what these ought to be. The National Kidney Foundation/Kidney Disease Outcomes Quality Initiative Clinical Practice Guidelines pertaining to patient adherence rightly emphasize compliance with hemodialysis itself but do not address other aspects of patient nonadherence [14]. While no gold standard exists, the sensitivity and specificity of the cut-off values used in this study are not known and may have influenced the results.

No prior international comparisons of this magnitude and detail are available. A brief publication by Bleyer et al [9] reports a cross-sectional analysis based on a survey of 86 nurses and nephrologists from Japan (*N* = 21), Sweden (*N* = 16), and the United States (*N* = 49). They concluded that nonadherence (based on "missed dialysis" treatments as the main outcome measure) was much more common in the United States compared with Sweden and Japan and recommended further study to determine the significance of their results for patient survival.

In this study of representative samples of hemodialysis patients from seven countries, measurable indices of nonadherence that have been published previously [8] were related to patient outcomes. Behavioral compliance measures of skipping dialysis and shortening dialysis times were studied, as well as indirect measures of dietary and medication compliance such as IDWG, serum phosphate levels, and serum potassium levels. By adjusting for patients who had been on dialysis for less than 1 year, an attempt was made in this study to account for the confounding influence of residual renal function on IDWG. To account for the possibility of survival bias that could potentially influence results in an analysis of a cross section of prevalent patients, all analyses were adjusted for multiple covariates, including years on hemodialysis. It also was thought desirable to express IDWG as a percentage of body weight, because absolute values can have different implications for individuals of different weight. Furthermore, for the purposes of this

study, intradialytic weight loss served as a proxy for IDWG since data on weights determined for two consecutive sessions were not uniformly available. Phosphate levels above 7.5 mg/dL were more likely to reflect nonadherence with diet and/or medication than levels between 5.5 mg/dL and 6.5 mg/dL. These latter levels could exist despite a patient's attempt at adherence with diet and drugs [15, 16], the result of the relatively inefficient phosphate clearance achieved by conventional three times a week hemodialysis [17].

Analysis revealed significant correlations between different measures of nonadherence. Results in this regard are in agreement with the study by Leggat et al [8] but at variance with Kimmel et al [18]. In the latter study, at three urban hemodialysis centers in the United States with predominantly African American populations, no correlation was observed between skipping and shortening behavior. The authors reasoned that this possibly reflected different underlying behavioral causes for skipping versus shortening.

Multiple demographic characteristics were observed in this study to predict patient nonadherence (Table 3). Younger age, African American race, female gender, disabled status, living alone, smoking, depression, and time on ESRD were associated with higher odds of nonadherence with one or more of the measurements of nonadherence. Some college education and prior kidney transplant were associated with neutral odds of nonadherence in all the domains studied. Living in a nursing home was associated with 47% lower odds of skipping treatment, perhaps owing to staff supervision and predictable transportation arrangements to and from the dialysis unit. A number of patient comorbidities tested were not significantly associated with nonadherence.

Skipping and shortening hemodialysis treatments is much more common in the United States than in EuroDOPPS or Japan. Excessive IDWG was more prevalent in Japan, followed by the United States and EuroDOPPS. High phosphate was almost equally prevalent in each of the three geographic regions, and potassium levels of >6.0 mEq/L were more prevalent in EuroDOPPS compared with Japan and the United States. Furthermore, while skipping one or more dialysis sessions in a month was associated with a 30% increased mortality risk compared with not skipping, shortening dialysis time was associated with an 11% higher RR of mortality than not shortening. Whereas the latter failed to reach statistical significance, the effect was in the expected direction and likely to be of clinical relevance, as shortening dialysis time represents a behavioral tendency to other measures of nonadherence in such patients. Skipping dialysis decreases the total delivered dose and may affect mortality by that mechanism. Dose of dialysis previously has been shown to have a relationship with RR of mortality in large observational studies

[8, 19], although this remains a controversial subject [20]. The magnitude of mortality risk associated with skipping dialysis seems almost as large as that predicted from the dose effect alone (with  $Kt/V$  in the model, the RR for mortality was 1.28,  $P = 0.05$ ). This suggests that the detrimental effect of skipping on mortality risk is independent of the delivered dialysis dose and that other detrimental factors or behaviors associated with skipping dialysis may contribute to the mortality risk. Hyperphosphatemia was significantly associated with a higher RR of mortality, confirming previous reports [21]. It is recognized that hyperphosphatemia may not simply reflect nonadherence with regard to diet. It may also be secondary to hyperparathyroidism, as well as underdialysis. When the mortality analyses were adjusted for intact PTH levels, the association between hyperphosphatemia and mortality seemed to strengthen. Hyperkalemia above 6.0 mEq/L failed to achieve statistical significance with respect to RR of mortality. The latter finding, however, should not lull practicing nephrologists into ignoring marked hyperkalemia as a risk factor for mortality in an individual patient and may indicate that the criterion of hyperkalemia is not always indicative of nonadherence and may be dependent upon variations in dietary pattern.

Few studies have looked at the effect of nonadherence on mortality. Held et al [7] reported a 14% higher risk of death from a single skipped session in one month. Ifudu, Henry, and Friedman [22], however, reported no increased risk. Leggat et al [8], based on a USRDS special study, reported definite mortality associations with nonadherence with respect to skipping or shortening sessions. Based on their analysis, one or more skipped hemodialysis session per month was associated with a 25% higher risk of death ( $P < 0.01$ ). Shortening three or more sessions, excessive IDWG, and hyperphosphatemia also correlate with heightened mortality risk, as in this study. Greater IDWG is associated with better nutritional indices and lower mortality in a Japanese hemodialysis registry report [23], as well as in a single-center study by Testa and Beaud [24]. However, these results support the contention that, after adjustments for age, race, gender, ethnicity, time on ESRD, 15 summary comorbid conditions, depression, smoking status, education, employment, and living status, high IDWG is associated with a higher mortality risk. It is conceivable that the "J-shaped" relationship suggested in the literature [23, 24] is not seen because of adjustments made in this study for the variables that would possibly be correlated with low IDWG (e.g., age, nursing home residence, depression, and comorbidity). The high mortality risk is perhaps secondary to excessive cardiovascular burden related to expanded extracellular volume. It has been reasoned quite convincingly that excessive salt intake increases thirst, and patients should be counseled to restrict salt

intake in the first instance so as to significantly reduce their water intake [25].

The data pertaining to hospitalization as an outcome of nonadherence (Table 5) indicate that skipping dialysis is a significant risk factor for hospitalization (with a 16% higher risk of hospitalization in those who skipped one or more sessions of hemodialysis in a month versus those who did not skip). The risk of hospitalization was 7% higher in those with a phosphate level >7.5 mg/dL. These results are consistent with the mortality data. Previous studies have not looked at hospitalization as an outcome while evaluating nonadherence, despite its importance with regard to patient morbidity and its effect on cost of care.

Facility size was correlated by group to see if this was a consistent linear pattern. As shown in Table 6, smaller facilities (lowest quartile) were associated with the observation on skipping, while the larger facilities (highest quartile) were associated with IDWG. Thus, facilities with more than 60 patients had a significantly higher OR of skipping dialysis (1.77,  $P = 0.001$ ) and those with more than 75 patients had a significantly higher OR of shortening dialysis (1.57,  $P = 0.006$ ). It was only when facility size exceeded 125 patients that a significantly higher OR was detected for IDWG. This analysis, the authors believe, is the first to report a relationship between facility size and measures of patient nonadherence. A prior national study on facility size and intermediate patient outcomes did not have information on nonadherence in the hemodialysis patients studied and recommended further exploration in this area [26].

The results of the current study also point to the potential importance of the percentage of direct patient-care staff that is highly trained. Both the percentage of highly trained staff hours and of highly trained staff members in a facility seem to have an effect on patient nonadherence, as measured by skipping in a given facility. This result was statistically significant (OR = 0.84 for 10% more highly trained staff,  $P = 0.02$ ; see Table 6) and points to the possible negative effect of hiring less than highly trained staff in dialysis units, a trend more commonly observed in the United States (Abstract; Mapes DL, et al, *J Am Soc Nephrol* 12:337A, 2001). Dedicated nursing time spent counseling patients to reduce nonadherence is beneficial, based on a recent literature review [27]. Furthermore, the presence of a registered dietitian seemed to lower the odds of high IDWG ( $P = 0.08$ ) in this study. Perhaps the time that a registered dietitian spends in counseling patients results in this trend. With respect to physician-patient contact time, the result is at odds with what would be expected, although the effect size is rather small (OR = 1.01;  $P = 0.05$ ).

## CONCLUSION

This is the first comprehensive international report on nonadherence in hemodialysis. Measures described include prevalence, patient and facility-level predictors, and hospitalization and mortality associations. Nonadherence, as measured by skipping and shortening hemodialysis treatments, was more prevalent in the United States than in Euro-DOPPS and Japan. Japan demonstrated the highest prevalence of IDWG per dry weight. After adjustments for multiple covariates, increased mortality risk was associated with skipping and shortening dialysis sessions, high IDWG, and hyperphosphatemia. Risk of hospitalization was significantly higher for those patients who skipped dialysis sessions and ran high phosphate levels, with implications for patient morbidity and thus cost to health care systems. Larger facilities were more likely to encounter a higher level of nonadherence, especially with respect to skipping and shortening dialysis. Highly trained staff may help to decrease nonadherence. The presence of a dietitian in the facility was found to lower the odds of excessive IDWG. Appropriate measures to minimize the nonadherence among patients (both at the patient and facility levels) are likely to reduce mortality and hospitalization risks in hemodialysis patients. Further research into effective ways to minimize nonadherence rates must continue in order to improve outcomes among hemodialysis patients.

## ACKNOWLEDGMENT

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Reprint requests to Rajiv Saran, M.D., M.S., Kidney Epidemiology and Cost Center, 315 W. Huron, Suite 240, Ann Arbor, MI 48103.  
E-mail: rsaran@umich.edu

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LUBIN OLSON & NIEWIADOMSKI LLP

THE TRANSAMERICA PYRAMID

600 MONTGOMERY STREET, 14TH FLOOR SAN FRANCISCO, CALIFORNIA 94111

TEL 415 981 0550 FAX 415 981 4343 WEB lubinolson.com

May 14, 2026

CHARLES R. OLSON  
Direct Dial: (415) 955-5020  
Email: colson@lubinolson.com

**VIA EMAIL AND U.S. MAIL**

Chair Smith and Members of the Planning Commission  
c/o Kelsey Gunter, Associate Planner  
City of Pittsburg  
65 Civic Avenue  
Pittsburg, CA 94565

Re: BlueWave Car Wash Time Extension  
AP-26-0016 (EXT); AP-21-1562 (UP,DR,RZ)  
1160 East Leland Road  
Planning Commission Hearing: June 9, 2026

Dear Chair Smith and Members of the Planning Commission:

This firm represents BlueWave, the owner of the referenced property and applicant for an extension of the approved entitlements for a BlueWave express car wash at the referenced location (the "Project"). This extension request originally scheduled for April 28, 2026, was continued at the staff's request to June 9, 2026.

We have received nearly 300 pages of materials from Ferguson Law PC, dated April 27, 2026, on behalf of adjacent property owner, E. Leland Road Associates, LLC ("ELRA"), opposing the extension. For the reasons below, the Ferguson Law letter is without merit, and we respectfully request that the Planning Commission grant BlueWave's requested extension for the reasons stated in the Staff Report dated April 28, 2026, and this letter.

**Background**

On December 13, 2022, the Planning Commission adopted Resolution No. 10213, recommending City Council approval of a Rezone, Use Permit, and Design Review for the Project. The Project's entitlement request included: 1) a Zoning Map Amendment (Rezone) of the 1.36 acre parcel from CC (Community Commercial) to establish a Limited Overlay District (CC-O) to conditionally permit Automobile Washing; and 2) a Use Permit to establish an Automobile Washing facility. The City Council subsequently adopted Ordinance No. 23-1506 and Resolution Nos. 23-14236 and 23-14237, approving the Project.

The Project's entitlements were set to expire on February 6, 2026. On January 29, 2026, BlueWave requested a three-year extension to February 6, 2029, to allow adequate time to complete final construction documents and obtain the required Building and Grading Permits. In accordance with Pittsburg Municipal Code ("PMC") Sections 17.16.090 and 18.36.240, and the Project's Conditions of Approval, an extension request submitted within the active approval period may be considered by the reviewing authority.

Since entitlement approval, the BlueWave project team has proceeded diligently and in good faith toward securing building permits and advancing the Project to construction. However, factors outside its direct control have contributed to delays, including: detailed site functionality analysis and value engineering to ensure long-term operational viability while maintaining compliance with City standards and the Project's Conditions of Approval; extended review and coordination with PG&E related to utility service requirement and infrastructure considerations; and collaborative work with adjacent property owners on site access, boundary conditions, and operational interface considerations. This coordination was undertaken proactively in the interest of producing a well-vetted, context sensitive Project consistent with the City's planning objectives.

### **Real Property Dispute Between BlueWave and ELRA**

As indicated in the Ferguson Law letter, ELRA has filed a lawsuit alleging that BlueWave's proposed use of a reciprocal easement violates the easement's terms. Mr. Ferguson's letter conflates a private dispute over a recorded easement with a challenge to the City's land use approvals. The lawsuit does not challenge the Zoning Overlay, Use Permit, or Design Review approvals; it merely claims the car wash would "unreasonably burden" a private reciprocal easement. This private party dispute will be adjudicated in Superior Court and has no bearing on whether the Planning Commission should extend duly-issued entitlements.

Importantly, the Court has already denied ELRA and DaVita's request for a Temporary Restraining Order ("TRO") and motion for a Preliminary Injunction. Both actions required ELRA/DaVita to show that their claims were likely to succeed on the merits, which the Court declined to find. In each case, the Court noted that ELRA/DaVita's complaints were premature: construction of the car wash had no impact on use of the easement. In its ruling on the Preliminary Injunction, the Court also determined that BlueWave "has obtained the necessary City permits and approvals for building the car wash."

Contrary to Mr. Ferguson's claim that BlueWave's "requests for design modifications have fallen on deaf ears," ELRA and DaVita have made clear that the only acceptable outcome is no car wash being built.

On January 7, 2025, BlueWave's project manager, Heather Rimmer, participated in a call with ELRA and DaVita's representatives and expressed willingness to paint arrows, install signage, or undertake other design changes to discourage car wash customers from using the

Northwestern Exit. In a follow-up call, ELRA and DaVita's representatives stated they would not agree to anything allowing car wash customers to access the Northwestern Exit through the shared easement and threatened to file suit to re-open the City's Project approvals.

ELRA/DaVita then tried to go straight to the City. On February 21, 2025, counsel for ELRA/DaVita emailed BlueWave saying they met with the City to present a new plan for the entry/exit of the lot, but the City told them to discuss this with BlueWave. The City rebuffed their challenges about failing to receive notice of the Project's approvals. Ms. Rimmer still agreed to review their plan and after careful consideration, sent a detailed explanation of why it was not feasible, citing redesign costs, site layout limitations, operational impacts, and traffic flow concerns.

A month later, ELRA's principal, Joe Kidron, emailed Ms. Rimmer with a new plan demanding BlueWave close off access to the Northwestern Exit to "avert W.W.3," fearing DaVita would leave, causing him financial harm. Ms. Rimmer reviewed the proposal and responded that while this change was not feasible, she remained "open to implementing the other accommodations we discussed during our initial call, provided that you and DaVita are agreeable to them" and "open to continuing this discussion directly with Jeff Pretty at DaVita to explore alternative solutions." In response to these overtures, Mr. Kidron stated unequivocally: "There will never be access to your car wash through my property," and "[w]e will never agree to any of your automobile or pedestrian traffic going through the clinic parking lot." He declared his "next step is going to court" and that they planned "to file an Injunction in superior court and ask the court to reverse your building permits."

Mr. Kidron's attorneys filed suit on June 20, 2025, seeking a TRO and motion for preliminary injunction to halt construction. The Court denied both. The parties agreed to mediation on December 15, 2025, which was unsuccessful, but they agreed to continue discussions. Without disclosing confidential details, BlueWave's last proposal was submitted on February 26, 2026, but Mr. Ferguson has avoided responding, citing a health scare, client coordination issues around Passover, and a client representative's maternity leave. No doubt, he also wanted to delay responding to see if his objection to the extension would get any traction.

Regardless of whether the parties resolve this dispute amicably, the real property rights at issue are outside the purview and jurisdiction of the Planning Commission and can only be resolved by a court of law. It is inappropriate for a land use tribunal to involve itself in the resolution of a title or real property dispute for several reasons. First, if the Planning Commission acted in a way that rendered BlueWave's real property interest in the reciprocal easement useless, this could amount to a taking of BlueWave's property interest requiring just compensation. Second, Planning Commission involvement regarding this issue could affect the balance of the parties in any ongoing negotiations to resolve this matter, weighing in the favor of one party over another. Third, the risk of any final negotiated agreement or ultimate court decision on ELRA's claims rests squarely with BlueWave; if any negotiated settlement or court decision prohibits BlueWave's use of the reciprocal easement in connection with operation of its

car wash, it is BlueWave, not ELRA, who will need to return to the Planning Commission and City Council to redesign access to its Project. Finally, contrary to ELRA's argument, granting BlueWave's request for an extension will facilitate on-going discussions of the parties over use of the reciprocal easement, not preclude them.

ELRA is attempting to evade the long-past statute of limitations for challenging the merits of the Project. The Project was approved on February 21, 2023, following environmental review. If ELRA wished to challenge the Project administratively, it needed to do so within ninety days of that approval under State law. It did not do so. And if it wanted to bring a legal challenge to the Project's approvals, it needed to exhaust its administrative remedies first, which it also did not do. The Planning Commission should not condone this end run around of State planning and zoning law by requiring the Project to be redesigned now.

### **The Planning Commission Should Adopt the Staff Recommendation and Grant the Requested Extension**

As indicated in the Staff Report, no changes to the design, density, or scope of the approved Project are proposed as part of the extension request. Furthermore, there have been no changes in local or State regulations affecting the Project entitlements since their original 2023 approval.

The Staff Report also documents that the Project continues to comply with the City's General Plan, Zoning, Property Development Regulations, Development Review Design Guidelines, and Use Permit and Design Review Findings.

Both this Commission and the City Council have previously made Findings that the use would not be detrimental to the health, safety, and general welfare of the City and will not adversely affect orderly development. The Project is controlled through Conditions of Approval and the adopted Mitigation Monitoring and Reporting Program ("MMRP"), ensuring orderly development and public safety during Project construction and future operation. The Project will not create a nuisance or enforcement problem, nor encourage marginal development within the neighborhood.

The extension request is consistent with the PMC, which allows extensions when an application is filed before the expiration of the approved entitlement.


The Staff Recommendation finds good cause to grant a three-year extension of the approved Use Permit and Design Review, as the Project supports orderly development of a major commercial corridor and activation of a long-vacant, commercially zoned site. The Project advances infill development consistent with General Plan Policies 2-P-1.2 and 2-P-1.4, by promoting land use compatibility and encouraging reinvestment in underutilized property contiguous with existing development. The approved use has undergone prior environmental

Chair Smith and Members of  
the Planning Commission  
City of Pittsburgh  
May 14, 2026  
Page 5

review and design analysis, ensuring consistency with all regulatory requirements and applicable standards.

We respectfully request that the Planning Commission approve the requested extension and allow the court to resolve the noted easement dispute.

Very truly yours,



Charles R. Olson

CRO/jw

cc: Bill Poland  
Isaac Suarez  
Heather Rimmer